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PROPOSED ACTION ON REGULATIONS

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION	<i>Page</i>
<i>Conflict of Interest Codes—Notice File No. Z05-0829-02</i>	1279
State Agency: Health and Human Services Agency	
TITLE 4. CALIFORNIA HORSE RACING BOARD	
<i>Animal Welfare—Notice File No. Z05-0829-06</i>	1280
TITLE 4. CALIFORNIA HORSE RACING BOARD	
<i>Toe Grabs Prohibited—Notice File No. Z05-0829-05</i>	1282
TITLE 10. DEPARTMENT OF INSURANCE	
<i>Minimum Reserve Standards—Notice File No. Z05-0830-06</i>	1284
TITLE 18. BOARD OF EQUALIZATION	
<i>Interstate and Foreign Commerce—Notice File No. Z05-0829-03</i>	1289
TITLE 18. BOARD OF EQUALIZATION	
<i>Place of Delivery of Tangible Personal Property—Notice File No. Z05-0829-04</i>	1291
TITLE 22. DEPARTMENT OF HEALTH SERVICES	
<i>Long Term Care Rates Fiscal Year 2002–03—Notice File No. Z05-0816-04</i>	1292
TITLE 22. DEPARTMENT OF TOXIC SUBSTANCES CONTROL	
<i>Hazardous Wastes of Concern—Notice File No. Z05-0830-05</i>	1295

GENERAL PUBLIC INTEREST

AIR RESOURCES BOARD	
<i>ARB/Railroad Statewide Agreement for a Particulate Emissions Reduction Program</i>	1299
DEPARTMENT OF FISH AND GAME	
<i>CESA Consistency Determination for Repair Sites Along the L200 Pipeline, ConocoPhillips, Contra Costa County</i>	1300

(Continued on next page)

*Time-
Dated
Material*

DEPARTMENT OF FISH AND GAME

CESA Consistency Determination for State Route 70/Algodon Road Interchange, Yuba County 1300

DECISION NOT TO PROCEED

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

Decision Not to Proceed with Transfer/Processing Operations and Facilities—Notice File No. Z04-1007-01, Published October 22, 2004, in the CRNR, 2004, No. 43-Z..... 1301

RULEMAKING PETITION DECISIONS

DEPARTMENT OF INSURANCE

Regarding Petitioners Sharon J. Arkin, President, and Frank M. Pitre, President-Elect, Title 10, CCR, Chapter 5 1301

DISAPPROVAL DECISIONS

BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS..... 1302

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State..... 1302

Sections Filed, April 6, 2005 to August 31, 2005 1304

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303, and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

CONFLICT OF INTEREST CODES

AMENDMENT

STATE AGENCY:

Health and Human Services Agency

A written comment period has been established commencing on September 9, 2005, and closing on October 24, 2005. Written comments should be directed to the Fair Political Practices Commission, Attention Kevin S. Moen, PhD, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written

comments must be received no later than October 24, 2005. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Kevin S. Moen, PhD, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Kevin S. Moen, PhD, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

TITLE 4. CALIFORNIA HORSE RACING BOARD

DIVISION 4, CALIFORNIA CODE OF REGULATIONS

NOTICE OF PROPOSAL TO ADD RULE 1902.5. ANIMAL WELFARE

The California Horse Racing Board (Board) proposes to add the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to add Rule 1902.5, Animal Welfare. The proposed amendment would provide for the humane treatment and care of animals at facilities under the jurisdiction of the Board.

PUBLIC HEARING

The Board will hold a public hearing starting at 9:30 a.m., Wednesday, November 30, 2005, or as soon after that as business before the Board will permit, at the Hollywood Park Race Track, 1050 South Prairie Avenue, Inglewood, California. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at 5:00 p.m., on October 24, 2005. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6397
Fax: (916) 263-6042
E-mail: harolda@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: Sections 19420 and 19440, Business and Professions (B&P) Code. Reference: 19460 and 19580, B&P Code.

B&P Code Sections 19420, 19440, 19460 and 19580 give the Board jurisdiction and supervision over meetings in California where horse races with wagering on their results are held and authorize the Board to adopt, amend or repeal regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

B&P Code Section 19420 states the Board has jurisdiction and supervision over meetings in California where horse races with wagering on their results are held and over all persons or things having to do with the operation of such meetings. B&P Code Section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually the purposes of this chapter. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering.

B&P Code Section 19460 states all licenses granted under this chapter are subject to all rules, regulations, and conditions from time to time prescribed by the Board. B&P Code Section 19580 requires the Board to adopt regulations to establish policies, guidelines, and penalties relating to equine medication in order to preserve and enhance the integrity of horse racing in California.

The humane treatment of animals, which includes the methods used to train, race and care for equine athletes, is a central tenant of the horse racing industry. It is important that everyone involved in horse racing acts responsibly towards horses engaged in the sport. The Board endorsed the International Group of Specialist Racing Veterinarians Welfare Guidelines for Horse Racing, but it currently does not have a rule that specifically addresses this area. If a licensee is charged with the mistreatment of an animal, Rule 1530, Cases Not Covered by Rules and Regulations is used. The Board has determined that a regulation that provides specific authority to act for the good of an animal's welfare is needed. The proposed addition of Board Rule 1902.5, Animal Welfare, would provide that no person under the jurisdiction of the Board shall permit or cause an animal under his control or care to suffer any form of cruelty, mistreatment, neglect or abuse, including abandonment, the administration of noxious or harmful substances, or the deprivation of necessary sustenance, shelter or veterinary care. The addition of Rule 1902.5 will cover areas that Rule 1530 leaves vacant or open to ambiguity or interpretation.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed addition of Rule 1902.5 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed addition of Rule 1902.5 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to add Rule 1902.5 does not affect small businesses because it addresses the welfare and wellbeing of animals under its jurisdiction. Animals are not small businesses under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
E-mail: harolda@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Jacqueline Wagner, Manager
Policy and Regulations
Telephone: (916) 263-6041

Pat Noble, Regulation Analyst
Telephone: (916) 263-6033

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternative contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

TITLE 4. CALIFORNIA HORSE RACING BOARD

DIVISION 4, CALIFORNIA CODE OF REGULATIONS

NOTICE OF PROPOSAL TO ADD RULE 1690.1 TOE GRABS PROHIBITED

The California Horse Racing Board (Board) proposes to add the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to add Rule 1690.1, Toe Grabs Prohibited. The proposed regulation prohibits thoroughbred horses from wearing toe grabs with a height greater than four millimeters on the front shoes while racing.

PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Wednesday, November 30, 2005, or as soon after that as business before the Board will permit, at the Hollywood Park Race Track, 1050 South Prairie Avenue, Inglewood, California.** At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on October 24, 2005.** The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone (916) 263-6397
Fax: (916) 263-6042
E-mail: harolda@chrb.ca.gov

AUTHORITY AND REFERENCE

Authority cited: section 19420, Business and Professions (B&P) Code. Reference: section 19562, B&P Code.

B&P Code Sections 19420 and 19562 give the Board jurisdiction and supervision over meetings in California where horse races with wagering on their

results are held and authorize the Board to adopt, amend or repeal regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

B&P Code Section 19420 provides that jurisdiction and supervision over meetings in California where horse races with wagering on their results are held or conducted, and over all persons or things having to do with the operation of such meetings, is vested in the California Horse Racing Board. B&P Code Section 19562 states the Board may prescribe rules, regulations, and conditions under which all horse races with wagering on their results shall be conducted in California.

The Board proposes to add Rule 1690.1, Toe Grabs Prohibited. The proposed regulation would prohibit the use of toe grabs with a height greater than four millimeters on the front shoes of thoroughbred horses participating in a race. Toe grabs are a type of horseshoe that is most commonly used to provide added traction for a horse. High toe grabs shoes add 8 millimeters to the height of the toe. Regular toe grabs add 6 millimeters and low toe grabs add 4 millimeters to the height of the toe. In 1996 a two-year study conducted by the University of California at Davis School of Veterinary Medicine's Orthopedic Research Laboratory identified types of shoes that could increase a horse's risk for injury. The study focused on horses injured at California race tracks while racing or training, and horses that trained at certified training centers. Shod hooves were collected from 201 horses submitted to the California Veterinary Diagnostic Laboratory System through the Board's Post Mortem Program. The presence of toe grabs (none, low, regular, high) and rim shoes (present, absent) was recorded for the front and hind legs of each horse, as well as the category of injury outcome, including fatal injury resulting from tendons, ligaments, bones or a suspensory ligament rupture or sesamoid fracture. The study indicated that the higher the toe grab, the greater the risk of injury. The odds of injury were 16 times greater for horses shod with regular toe grabs compared to horses shod without toe grabs. The odds of any type of fatal injury were three times higher with regular grabs when compared to horses shod without grabs. The study determined the added height changed the geometry of the hoof as it contacted the ground, while also changing the angles of the joints as they supported the weight of the horse in a manner similar to the undesirable long toe, low heel hoof conformation that develops in many thoroughbred racehorses. Because toe grabs elevate only the toe of the hoof, the hoof is unbalanced from toe to heel, thus changing the natural position of the horse's toe during the weight-bearing part of the stride and can change the forces traveling up the leg.

The 1996 study led to other studies including a survey of the types of shoes worn at Northern and Southern California thoroughbred race meetings. The study included 11,000 horses competing in 8,000 races. Researchers involved in this study devised a method to compare the types of shoes worn by horses that sustained an injury to the type of shoes worn by horses that did not sustain an injury. The results of the study showed that horses with regular or high toe grabs were at greater risk of a musculoskeletal injury than horses that had low or very low toe grabs.

DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed addition of Rule 1690.1 will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed addition of Rule 1690.1 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to add Rule 1690.1 does not affect small businesses. The rule prohibits the use of certain toe grabs on thoroughbreds racing in California, which are not small businesses under Government Code Section 11342.610.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst
California Horse Racing Board
1010 Hurley Way, Suite 300
Sacramento, CA 95825
Telephone: (916) 263-6397
E-mail: harolda@chrb.ca.gov

If the person named above is not available, interested parties may contact:

Jacqueline Wagner, Manager
Policy and Regulations
Telephone: (916) 263-6041
Pat Noble, Regulation Analyst
Telephone: (916) 263-6033

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternative contact person at the address, phone number or e-mail address listed above.

AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

AVAILABILITY OF STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: www.chrb.ca.gov.

TITLE 10. DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

RH-04041191
August 23, 2005

SUBJECT OF HEARING

Notice is hereby given that a public hearing will be held regarding the adoption of amendments to the California Code of Regulations ("CCR") Title 10, Chapter 5, Subchapter 3, Article 3.5, Minimum Reserve Standards for Valuation of Disability Insurance Contracts, Sections 2312 (Claim Reserves), 2312.5 (Contract Reserves), and 2315 (Specific Standards for Morbidity, Interest and Mortality). With some exceptions, the proposed amendments conform to revisions that have been made by the National Association of Insurance Commissioners (NAIC) to the text of NAIC Health Insurance Reserves Model Regulation (NAIC Model 10), upon which text the current CCR sections 2312, 2312.5, and 2315 are based.

AUTHORITY AND REFERENCE

The Insurance Commissioner proposes the adoption of amendments to Title 10, Chapter 5, Subchapter 3, Article 3.5, Minimum Reserve Standards for Valuation of Disability Insurance Contracts, sections 2312, 2312.5, and 2315 pursuant to the authority vested in him by sections 997(a) and 10489.95 of the California Insurance Code. The Commissioner's decision on the proposed amendments will implement, interpret, and make specific the provisions of Insurance Code sections 985, 997, and 10489.15(a).

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to

present statements or arguments, orally or in writing, with respect to the proposed regulations as follows:

Date and time: **October 24, 2005**
10:00 am*

Location: **Department of Insurance**
Hearing Room
45 Fremont Street, 22nd Floor
San Francisco, CA 94105

*The hearing will continue on the date noted until all testimony has been completed or 5:00 p.m., whichever is earlier.

PRESENTATION OF WRITTEN AND/OR ORAL COMMENTS; CONTACT PERSONS

All persons are invited to present oral and/or written comments at the scheduled public hearing. Written comments should be addressed to the contact person:

Nancy Hom, Staff Counsel III
California Department of Insurance
45 Fremont Street, 24th Floor
San Francisco, CA 94105
Telephone: (415) 538-4144

Questions regarding procedure, the hearing, comments, or the substance of the proposed action should be addressed to the contact person listed above. If she is unavailable, inquiries may be addressed to the backup contact person:

Susan Stapp, Assistant Chief Counsel
California Department of Insurance
45 Fremont Street, 24th Floor
San Francisco, CA 94105
Telephone: (415) 538-4403

DEADLINE FOR WRITTEN COMMENTS

All persons are invited to submit written comments on the proposed regulations during the public comment period. **The public comment period will end at 5:00 p.m. on October 24, 2005.** All written comments, whether submitted at the hearing, or by U.S. mail, or by e-mail or facsimile, must be received by the Insurance Commissioner, c/o the contact person at the address listed above, no later than **5:00 p.m. on October 24, 2005.** Any written materials received after that time will not be considered.

COMMENTS TRANSMITTED BY E-MAIL OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: homn@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are sent to the attention of the contact person at the following facsimile number: (415) 904-5729. **Comments sent to other e-mail addresses or other facsimile numbers**

will not be accepted. Comments sent by e-mail or facsimile are subject to the October 24, 2005 deadline for written comments set forth above.

ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person(s) for the hearing in order to make special arrangements, if necessary.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of Title 10 of the California Code of Regulations, in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address to inquire about the appropriate procedures:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
(916) 492-3559

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the contact person for this hearing. Please contact the Office of the Public Advisor for further information.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Each year life and disability insurers are required by law to prepare and file an annual statement which, among other things, discloses financial information about the company which the Department of Insurance reviews to ensure that the company is operating in accordance with applicable laws. Each annual statement contains information on the sufficiency of the insurer's reserves to cover future obligations, such as claims. Existing law (CCR sections 2312, 2312.5, and 2315) prescribes how reserves must be calculated and maintained, and what levels of reserves are required by law. All three of these sections are derived from the NAIC's Health Insurance Reserves Model Regulation (NAIC Model 10).

The Commissioner now proposes to amend sections 2312, 2312.5, and 2315. By and large the amendments are identical to or closely parallel recent revisions made by the NAIC to the NAIC Model Regulation upon which sections 2312, 2312.5, and 2315 were originally based. The actuarial bases (such as mortality, morbidity) for valuation of policies under the NAIC Model Regulation and also the Department of

Insurance's own minimum reserve standards regulations must be updated from time to time to reflect changing conditions and more recent data. The proposed amendments will achieve this objective.

In addition to the obvious benefits of using more recent data as opposed to older data, the proposed amendments will promote uniformity of standards among different states. The current revisions to the NAIC model regulation are in the process of being adopted by several different states. Both insurers and consumers benefit when administrative costs related to compliance with multiple, inconsistent regulatory requirements imposed by different states are reduced. The proposed amended regulations tend to serve this purpose by ensuring that California's regulatory requirements in this area are as consistent with those of other states as is possible under California law. Everyone stands to benefit when insurers, operating in compliance with California law, are able to devote additional resources—resources which would otherwise be expended satisfying multiple, inconsistent regulatory regimes—to improving their financial stability or providing better products to consumers. The proposed regulations are reasonably necessary to the degree to which they help to achieve this goal.

The proposed amendments to sections 2312, 2312.5, and 2315 implement, interpret, and make specific the reserving requirements of Insurance Code sections 985, 997, and 10489.15(a) by specifying and clarifying the way in which the reserves shall be calculated and maintained. The overall objective is to facilitate enforcement of the minimum statutory reserving requirements in a manner that is also consistent with the NAIC standards and with the NAIC standards as adopted by other states.

SUMMARY OF EXISTING LAW; EFFECT OF PROPOSED ACTION

Section 2310 of the Department of Insurance's existing regulations requires that the adequacy of an insurer's reserves be determined on the basis of three separate categories of reserves: claim reserves, contract reserves, and premium reserves. The actuarial bases (e.g., mortality and morbidity bases) for the first two categories are being updated in the proposed regulations to more accurately reflect current conditions and recent data. In addition, the proposed regulations expand upon existing regulations to clarify existing and new requirements, and to promote consistency with the NAIC Model Regulation and the regulations of other states to the extent that they too adopt regulations based on the NAIC Model.

Section 2312 Claim Reserves.

The current section 2312 sets forth general rules governing the minimum reserves that insurers must maintain to cover all incurred but unpaid claims

(including claims accrued and unaccrued, reported and unreported). The standards established by this section help to ensure that insurers have enough money in their reserves to pay claims, and that insurers are subject to uniform reserving standards.

The proposed amendments to section 2312 update the section by incorporating recent amendments to the NAIC Health Insurance Reserves Model Regulation (NAIC Model 10). Existing law does not contain the NAIC updates.

The language in section 2312(b)(1)(B) 1. and 2. allows insurers to continue using their current morbidity standards for disability income claims that have already occurred. It also gives the insurers the option of calculating reserves for individual and group disability income claims incurred on or after January 1, 2005 according to morbidity standards that are based on other acceptable experience. The language of this section has been amended to conform to the language of the NAIC Model Regulation, but the requirements are essentially unchanged. This amendment promotes uniformity with the NAIC standards.

The capital letters in subsections of Section 2312(b)(1)(B)2.(ii) have been changed to Roman numerals to conform them to an outline format.

Section 2312(b)(1)(B)3. (including parts (i) and (ii)) gives insurers a choice of morbidity standards for disability income claims incurred prior to January 1, 2005. The insurer may choose to calculate its claim reserves using the minimum morbidity standard in effect as of the date the claim was incurred, or it may choose to use the minimum morbidity standards set forth in section 2312(b)(1)(B)1. and 2. Once the insurer elects to calculate reserves as defined in 1. and 2., all future valuations must be on that basis to promote consistency. Existing section 2312(c) does not state whether approximations of claims data based on groupings or averages may be used. Sometimes insurers do not have sufficient data for the required calculations unless they use groupings and averages. The amendment to section 2312(c) clarifies the standard by stating that the insurer may use approximations based on groupings and averages. The amendments to section 2312(c) also change the word "employed" to "valued" because "valued" more accurately describes what is done with the reserve data. Except for the re-numbering of paragraphs, which is a non-substantive change, all of the proposed amendments to section 2312 simply update the section by incorporating provisions from the current version of the NAIC Model Regulation.

Section 2312.5 Contract Reserves.

The current section 2312.5 governs contract reserves, which are reserves for claims which may occur in the future. Section 2312.5 states when contract

reserves are required and how contract reserves must be calculated. The proposed amendments to section 2312.5 clarify and expand the regulation so that it is consistent with the NAIC Model Regulation. Existing law does not set forth the new requirements.

The language added to section 2312.5(a)(1)(B) allows insurers to use data collected on a block basis (as opposed to data maintained on an individual basis for each insured) if the premiums are developed on a block basis to support risk assumed and expected expenses for the block. The rationale is that if the insurer develops premiums on a block basis, then it makes sense and is consistent to allow the insurer to maintain reserves on a block basis. The new language requires an actuary to certify that the premium development was on a block basis. The certification helps to ensure compliance with this section. The language of the proposed amendment to section 2312.5(a)(1)(B) is taken directly from the NAIC Model Regulation, with one exception: for clarity, the Department of Insurance expanded the citation at the end of the paragraph from a partial citation, "subsection (b)," to a complete citation: "subsection 2312.5(b)."

The new language set forth as section 2312.5(a)(5) is taken directly from the NAIC Model Regulation. It provides that the insurer's contract reserve shall incorporate provisions for moderately adverse deviations. This requirement is consistent with recent changes in the Department of Insurance's Actuarial Opinion and Memorandum Regulations (California Code of Regulations Title 10, Chapter 5, Subchapter 3, Article 17, section 2580.1 et seq.), which require adequacy of reserves to be justified on moderately adverse deviations.

The number (1), the heading "Basis," and the substitution of (A) for (1) have been added to organize and clarify the provisions of section 2312.5(b) as amended to incorporate provisions of the NAIC Model Regulation.

The new language added to section 2312.5(b)(1)(A) concerning morbidity tables is from the NAIC Model Regulation: "The morbidity tables shall contain a pattern of incurred claims cost that reflects the underlying morbidity and shall not be constructed for the primary purpose of minimizing reserves." This means that insurers may not reduce morbidity levels simply to justify a reduction in reserves for contracts for which tabular rates are not specified in section 2315.

The current version of section 2312.5(b)(1)(A) contains a typo which is corrected in the proposed regulations by striking "or" on line four of the first paragraph and inserting the word "of" in its place

Section 2312.5(b)(1)(A)1 and 2312.5(b)(1)(A)2 consist of new language taken from the NAIC Model

Regulation. These new paragraphs give actuaries some guidance on implementing the requirements of section 2312.5(b)(1)(A) as amended.

Section 2312.5(b)(1)(A)1 has been added to allow morbidity assumptions to be the best estimate of anticipated future experience, but not to incorporate any expectations of future morbidity improvement. However, the last sentence of paragraph 1 is intended to provide allowances for a known event, such as a new drug release that would significantly affect morbidity assumptions, even though at this time there are no specific examples that could be noted in the recent past that would have met this standard. This is intended to be an extremely rare event.

Section 2312.5(b)(1)(A)2., taken from the NAIC Model Regulation, provides insurers with a limited exception to the requirements of section 2312.5(b)(1)(A)1. Section 2312.5(b)(1)(A)2. provides that insurers which have reserve bases that do not meet the requirements of section 2312.5(b)(1)(A)1. and which have business in force as of the effective date of the regulations may continue using their existing reserve bases if they convince the Commissioner that continued use of the reserve bases is acceptable.

Section 2312.5(b)(1)(C)2 is language taken from the NAIC Model Regulation. It has been added as an amendment to section 2312.5 because there is a need for uniform actuarial standards applicable to long term care contract reserves. The new language means that contract reserves for long term care individual policies or group certificates issued on or after January 1, 2005 will be determined using the updated mortality data set forth in the amended section 2315 rather than older data that would be less accurate for recent claims. The remainder of this subsection sets forth standards for contract reserves for terminations other than mortality.

2312.5(b)(4) is language taken from the NAIC Model Regulation. It states that the contract reserve on a policy basis for long term care insurance shall not be less than the net single premium for nonforfeiture benefits at the appropriate policy duration, where net single premium is computed according to the proposed regulations. This proposed regulation promotes solvency by establishing a minimum amount that each insurer must maintain as a contract reserve for long term care policies, which is never less than the nonforfeiture cash surrender value, if the policy has nonforfeiture benefits.

The remaining changes to this section consist of corrections to typographic errors and renumbering of paragraphs so that new language from the NAIC Model Regulation fits into the outline format of the existing section 2312.5.

Section 2315 Specific Standards for Morbidity, Interest, and Mortality.

From time to time, in light of new experience, standards for morbidity, mortality, termination rates, and other data are updated after investigations by entities such as the Society of Actuaries generate newer, and thus more accurate or relevant data. California Insurance Code section 997(a) authorizes the Commissioner to regularly incorporate updated data into California law. The NAIC Model Regulations contain updated, specific minimum morbidity standards and termination assumptions, along with explanations on how the new data should be used in determining reserves. Section 2315 of the proposed regulations, as amended, now contains the updated standards for morbidity and mortality, along with explanations on how the standards should be used. Section 2315 as amended also contains the updated mortality standards for long-term care policies. Existing law does not contain the updated standards or explanations on how they should be used, and does not create special, more precise provisions for long-term care policies.

Specifically, Section 2315(a)(1)(A)2.(i) sets forth a table of adjustment factors and adjusted termination rates for individual disability claims incurred on or after January 1, 2005. This section also explains the derivation of the tables and sets forth instructions on how they should be used. Section 2315(a)(1)(A)2.(ii) gives insurers some flexibility for older claims by providing that for claims incurred prior to January 1, 2005 the insurer may choose to perform its calculations using either the minimum morbidity standard in effect for contract reserves on currently issued contracts as of the date the claim is incurred, or the new standard set forth in section 2315(a)(1)(A)2.(i). Section 2315(a)(1)(A)2.(ii)(III) provides that once an insurer chooses a morbidity standard to use for its reserve calculations all future valuations must be on that basis. In other words, the insurer may not switch back and forth between one standard and the other—once it has chosen a standard it must continue using the chosen standard for those particular reserve calculations. This is consistent with the proposed language in subsections 2312(b)(1)(B)3.(i) and (ii). This restriction promotes consistency and reduces manipulation of data.

Section 2315(c) allows insurers to determine the mortality basis for all policies except long-term care individual and group policies issued on or after January 1, 2005 by reference to tables permitted by Insurance Code section 10489.2(a). The proposed regulation as amended allows them to determine the mortality basis for long-term care individual or group policies issued on or after January 1, 2005 by reference to the 1994 Group Annuity Mortality

Static Table. These amendments permit the use of the updated mortality standards for long-term care policies.

The remaining changes to section 2315 simply renumber paragraphs so that new language can be incorporated into the format of the existing regulation.

DOCUMENTS INCORPORATED BY REFERENCE

The following documents have been incorporated by reference into the proposed regulations:

- The 1985 Commissioners Individual Disability Table A (85CIDA);
- Transactions of the Society of Actuaries (TSA) XXXVII, pp. 457–463, exhibits 3a, 3b, 3c, 4 and 5;
- The 1985 Commissioners Individual Disability Table C (85CIDC);
- The 1994 Group Annuity Mortality Static Table.

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO ANY STATE OR LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State.

ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner has made an initial determination that the proposed regulations may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The types of businesses that may be affected are insurance companies. Insurance companies may incur some costs as a result of updating the way they calculate reserves. The Commissioner has considered performance standards, but the Commissioner has identified no performance standards that would be as effective as the proposed regulations in enforcing the statutes that form the basis for the proposed regulations. The Commissioner has not

considered other proposed alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses;
- (ii) Consolidation or simplification of compliance or reporting requirements for businesses;
- (iii) The use of performance standards rather than prescriptive standards;
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES

The Commissioner has determined that for insurance companies subject to the proposed regulations there is likely to be some cost impact, although it will most likely be minimal. The cost impact would be the cost of changing some of the data which the insurer uses in its reserve calculations, with any resulting change in reserve amounts, and the cost of calculating reserves in a more updated way than in the past. The cost impact of complying with the proposed regulations has already been mitigated by the fact that the NAIC Model Regulation has already been adopted in a number of states, and insurers doing business in those states are thereby already required to comply with the NAIC requirements, irrespective of whether or not the proposed regulations require it. Consequently, if California adopts regulations based on the NAIC Model, the additional work of these companies in complying with California's NAIC-derived requirements is likely to be minimal.

FINDING OF NECESSITY

The Commissioner finds that it is necessary for the welfare of the people of the State that the regulations apply to businesses.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs within the State of California as well as the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the State. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on this issue.

IMPACT ON HOUSING COSTS

The matters proposed herein will have no significant effect on housing costs.

ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations.

IMPACT ON SMALL BUSINESS

The Commissioner has determined that the proposed regulations will not affect small businesses. Pursuant to Government Code section 11342.610(b)(2), insurers are not small businesses.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons that sets forth the reasons for the proposed regulations. Upon request, the Initial Statement of Reasons will be made available for inspection and copying. Requests for the Initial Statement of Reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the Final Statement of Reasons will be made available for inspection and copying once it has been prepared. Requests for the Final Statement of Reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the Initial Statement of Reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying by prior appointment at 45 Fremont Street, 24th Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING

A copy of the proposed regulations and this Notice (including the Informative Digest, which contains the general substance of the proposed regulations) will automatically be sent to all persons on the Insurance Commissioner's mailing list.

WEBSITE POSTINGS

Documents concerning this proceeding will be available on the Department's website. The documents shall include the proposed regulations, the Notice of Hearing and Informative Digest, the Initial Statement

of Reasons, and, when it has been prepared, the Final Statement of Reasons. To access documents concerning this proceeding, go to <http://www.insurance.ca.gov>. Find the link "QUICK LINKS" in blue in the middle of the screen. Click on the link for "Legal Information" under the "QUICK LINKS" link, then click on the "Proposed Regulations" link. When the search field appears, enter 'RH04041191' (the Department's regulation file number for these regulations).

MODIFIED LANGUAGE

If the regulations adopted by the Department differ from those which have originally been made available but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

TITLE 18. BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to amend Regulation 1620, Interstate and Foreign Commerce, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulations will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on October 25, 2005. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by October 25, 2005.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law, Revenue and Taxation Code section 6352, provides that purchases of tangible personal property from a retailer for use in California are subject to use tax. The regulation also provides that certain exemptions and exclusions apply.

Regulation 1620, Interstate and Foreign Commerce, is proposed to be amended to interpret, implement and make specific Revenue and Taxation Code section 6352. Amendments are proposed to provide that transactions involving sales of locomotives are not subject to use tax if specified conditions are met, and to correct clerical errors.

**COST TO LOCAL AGENCIES AND
SCHOOL DISTRICTS**

The State Board of Equalization has determined that the proposed amendments and regulation do not impose a mandate on local agencies or school districts. Further, the Board has determined that the amendments and regulations will result in no direct or indirect cost or savings to any State agency, any costs to local agencies or school districts that are required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the Government Code or other non-discretionary costs or savings imposed on local agencies, or cost or savings in federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(7), the Board of Equalization made an initial determination that the adoption of the amendments to Regulation 1620 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed amendment to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The amendment to the regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulations may affect small business.

**COST IMPACT ON PRIVATE
PERSON OR BUSINESSES**

That Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Regulation 1620 and the proposed changes have no comparable federal regulations.

AUTHORITY

Section 7051, Revenue and Taxation Code.

REFERENCE

Section 6352 Revenue and Taxation Code.

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Ms. Lisa Andrews (916) 322-5989, at 450 N Street, Sacramento, CA 95814, e-mail Lisa.Andrews@boe.ca.gov or by mail at

State Board of Equalization, Attn: Lisa Andrews, MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, e-mail Diane.Olson@boe.ca.gov or Ms. Joann Richmond, Property Tax Appeals Analyst, telephone (916) 322-1931, e-mail Joann.Richmond@boe.ca.gov or by mail at State Board of Equalization, Attn: Diane Olson or Joann Richmond, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

**AVAILABILITY OF INITIAL STATEMENT
OF REASONS AND TEXT OF
PROPOSED REGULATION**

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

**AVAILABILITY OF FINAL
STATEMENT OF REASONS**

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may, in accordance with the law, adopt the proposed regulations if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any

modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Richmond. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

TITLE 18. BOARD OF EQUALIZATION

NOTICE IS HEREBY GIVEN

The State Board of Equalization, pursuant to the authority vested in it by section 15606(a) of the Government Code, proposes to promulgate Regulation 1823.4, Place of Delivery of Tangible Personal Property Generally, in Title 18, Division 2, Chapter 4, of the California Code of Regulations, relating to sales and use tax. A public hearing on the proposed regulation will be held in Room 121, 450 N Street, Sacramento, at 1:30 p.m., or as soon thereafter as the matter may be heard, on October 25, 2005. At the hearing, any person interested may present statements or arguments orally or in writing relevant to the proposed regulatory action. The Board will consider written statements or arguments if received by October 25, 2005.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law, Revenue and Taxation Code section 7262, provides that district use tax does not apply to gross receipts from sales of tangible personal property shipped to a point outside a district to be used solely outside any district.

Proposed Regulation 1823.4, Place of Delivery of Tangible Personal Property Generally, is proposed to be promulgated to interpret, implement and make specific Revenue and Taxation Code section 7262. The regulation is proposed to provide a certificate of exclusion from district use tax for a purchaser to submit to a retailer in order to demonstrate that district use tax is not applicable to a given transaction.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The State Board of Equalization has determined that the proposed regulation does not impose a mandate on local agencies or school districts. Further, the Board has determined that the proposed regulation will result in no direct or indirect cost or savings to any State agency, any local agency or school district that is required to be reimbursed under Part 7 (commencing with section 17500) of Division 4 of Title 2 of the

Government Code or other non-discretionary cost or savings imposed on local agencies, or cost or savings in Federal funding to the State of California.

EFFECT ON BUSINESS

Pursuant to Government Code section 11346.5(a)(7), the Board of Equalization makes an initial determination that the adoption of Proposed Regulation 1823.4 will have no significant statewide adverse economic impact directly affecting business.

The adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses nor create or expand business in the State of California.

The regulation as proposed will not be detrimental to California businesses in competing with businesses in other states.

The proposed regulation may affect small business.

COST IMPACT ON PRIVATE PERSON OR BUSINESSES

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SIGNIFICANT EFFECT ON HOUSING COSTS

No significant effect.

FEDERAL REGULATIONS

Proposed Regulation 1823.4 has no comparable federal regulations.

AUTHORITY

Section 7051 Revenue and Taxation Code.

REFERENCE

Section 7261 Revenue and Taxation Code.

CONTACT

Questions regarding the substance of the proposed regulation should be directed to Ms. Lisa Andrews (916) 322-5989, at 450 N Street, Sacramento, CA 95814, e-mail Lisa.Andrews@boe.ca.gov or by mail at State Board of Equalization, Attn: Lisa Andrews, MIC:50, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0050.

Written comments for the Board's consideration, notice of intent to present testimony or witnesses at the public hearing, and inquiries concerning the proposed administrative action should be directed to Ms. Diane Olson, Regulations Coordinator, telephone (916) 322-9569, fax (916) 324-3984, e-mail Diane.Olson@boe.ca.gov or Ms. Joann Richmond, Property Tax Appeals Analyst, telephone (916) 322-1931, e-mail Joann.Richmond@boe.ca.gov

or by mail at State Board of Equalization, Attn: Diane Olson or Joann Richmond, MIC:80, P.O. Box 942879, 450 N Street, Sacramento, CA 94279-0080.

ALTERNATIVES CONSIDERED

The Board must determine that no reasonable alternative considered by it or that has been otherwise identified and brought to its attention would be more effective in carrying out the purpose for which this action is proposed, or be as effective and less burdensome to affected private persons than the proposed action.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board has prepared an initial statement of reasons and an underscored version (express terms) of the proposed regulation. Both of these documents and all information on which the proposal is based are available to the public upon request. The Rulemaking file is available for public inspection at 450 N Street, Sacramento, California. The express terms of the proposed regulation are available on the Internet at the Board's web site <http://www.boe.ca.gov>.

AVAILABILITY OF FINAL STATEMENT OF REASONS

The final statement of reasons will be made available on the Internet at the Board's web site following its public hearing of the proposed regulation. It is also available for your inspection at 450 N Street, Sacramento, California.

ADDITIONAL COMMENTS

Following the hearing, the State Board of Equalization may in accordance with law adopt the proposed regulation if the text remains substantially the same as described in the text originally made available to the public. If the State Board of Equalization makes modifications which are substantially related to the originally proposed text, the Board will make the modified text, with the changes clearly indicated, available to the public for fifteen days before adoption of the regulation. The text of any modified regulation will be mailed to those interested parties who commented on the proposed regulatory action orally or in writing or who asked to be informed of such changes. The modified regulation will be available to the public from Ms. Olson. The State Board of Equalization will consider written comments on the modified regulation for fifteen days after the date on which the modified regulation is made available to the public.

TITLE 22. DEPARTMENT OF HEALTH SERVICES

ACTION

Notice of Emergency Rulemaking
Title 22, California Code of Regulations

SUBJECT

Long Term Care Rates Fiscal Year 2002–03, R-23-02E

The California Department of Health Services (Department) has adopted the regulations described in this notice on an emergency basis, and they are now in effect.

PUBLIC PROCEEDINGS

The Department will conduct written public proceedings, during which time any interested person or such person's duly authorized representative may present statements, arguments, or contentions (hereinafter "comments") relevant to the action described in this notice.

CONTACTS

In any inquiries or written comments, please identify the action by using the Department regulation control number, R-23-02E:

COMMENTS

Any written comments pertaining to these regulations, regardless of the method of transmittal, must be received by the Office of Regulations by 5 p.m. on October 24, 2005, which is hereby designated as the close of the written comment period. Comments received after this date will not be considered timely. Persons wishing to use the California Relay Service may do so at no cost. The telephone numbers for accessing this service are: 1-800-735-2929, if you have a TDD; or 1-800-735-2922, if you do not have a TDD. Written comments may be submitted as follows:

1. By mail or hand-delivered to the Office of Regulations, Department of Health Services, MS 0015, 1501 Capitol Avenue, P.O. Box 997413, Sacramento, CA 95899-7413. It is requested but not required that written comments sent by mail or hand-delivered be submitted in triplicate; or
2. By fax transmission: (916) 440-7714; or
3. By email to regulation@dhs.ca.gov (it is requested that email transmissions of comments, particularly those with attachments, contain the regulation package identifier "R-23-02E" in the subject line to facilitate timely identification and review of the comment), or
4. By using the "Making Comments" link to the Department website at <http://www.dhs.ca.gov/regulation/>.

All comments, including email or fax transmissions, should include the author's name and U.S. Postal Service mailing address in order for the Department to provide copies of any notices for proposed changes to the regulation text on which additional comments may be solicited.

**TO OBTAIN THE REGULATIONS
REFERENCED IN THIS NOTICE**

1. Materials regarding these regulations (including this public notice, the regulation text, and the Initial Statement of Reasons) that are available via the Internet may be accessed at <http://www.dhs.ca.gov/regulation/> and then clicking on the "Select DHS regulations" button.
2. In order to request a copy of this regulation package be mailed to you, please call (916) 440-7695 or email regulation@dhs.ca.gov.

INQUIRIES

Inquiries regarding the substance of the emergency regulations described in this notice may be directed to Sandy Yien of the Rate Development Branch at (916) 552-9673.

All other inquiries concerning the action described in this notice may be directed to Lynette Cordell of the Office of Regulations at (916) 650-6827, or to the designated backup contact person, Chuck Smith, at (916) 440-7693.

Upon request, this document will be made available in Braille, large print, and audiocassette or computer disk. To obtain a copy in one of these alternate formats, please call or write: Lynette Cordell, Office of Regulations, MS 0015, P.O. Box 997413, Sacramento, CA 95899-7413, voice (916) 650-6827 and/or California Relay at 711/1-800-735-2929.

**INFORMATIVE DIGEST/POLICY
STATEMENT OVERVIEW**

Welfare and Institutions Code section 14105 requires the Department of Health Services (Department) to adopt regulations establishing reimbursement rates for Medi-Cal providers of health care services and provides for the emergency adoption of regulations for these changes in response to legislative budgeting decisions.

This emergency regulatory action amends regulations to reflect reimbursement rates established by the Department for the 2002–03 rate year (August 1, 2002 through July 31, 2003). In the 2002–03 Budget Act (Stats. 2002, ch. 379), Items 4260-101-0001 and 4260-101-0890, the Legislature appropriated funding to pay these rates that the Department determined should be paid for this rate year. The individual rate adjustments amend the below listed sections of the California Code of Regulations, title 22. These

adjustments update the rates for specific types of facilities providing long-term care services to Medi-Cal beneficiaries. These rates represent the maximum amount paid for services provided on or after August 1, 2002.

Section	Service	Weighted Average Percentage Change
51510 (e)	Nursing Facility Level A Services	3.09
51510.1(d)	Intermediate Care Services for the Developmentally Disabled	0.53
51511(a)	Nursing Facility Level B Services	0.53
51511.5	Nursing Facility Services–Subacute Care Reimbursement	0
51511.6	Nursing Facility Services–Pediatric Subacute Care Reimbursement	2.67
51535(d)	Leave of Absence	2.06
51535.1(d)	Bed Hold for Acute Hospitalization	2.06
51544(h)	Hospice Care-NF-A Hospice Care-NF-B	2.36 0.71
54501(b)	Adult Day Health Care Services	3.05

(The percentages listed above cannot be used to determine the rate for each facility category from the prior year. The percentage changes shown above are averages of all facility categories in each regulation section, weighted by patient days for those categories.)

In addition to the amendments to the reimbursement rates, the following other sections have been amended as follows:

In sections 51510(e) and 51511(a), the Bay Area peer group is amended to include Napa and Sonoma counties.

In section 51510(e), the rates for freestanding level A nursing facilities with a bedsize of 100+ are amended to \$89.54. This increase is implemented to correct a rate methodology error brought to the Department's attention by the California Association of Health Facilities.

In sections 51511(a)(2)(C) and 51511.5(f)(2), the audit disallowance factor has been updated to reflect data for the fiscal year 2002–03 rate setting period. Where an audit disallowance factor is used, the audit disallowance factor is based on audits of a random sample of facilities. The disallowance factor reflects costs that are found not to be allowable costs under the Medi-Cal program and is applied to all facilities subject to that regulation section.

In sections 51511 and 51511.5, wherever dates are used, they have been updated to reflect the fiscal year 2002–03 rate setting period.

In section 51511.5, subparagraphs (a)(1)–(a)(2)(B) were added to implement the 2002–03 rate freeze and clarify when the requirements of subdivision (a) apply to subacute facilities. Other subsections were redesignated and amended for clarity.

In section 51544(h)(1), for hospice care services provided between August 1, 2002 to January 31, 2003, the reimbursement rates for Level A and Level B nursing facilities were amended to reflect updated facility cost data. In section 51544(h)(2), for hospice care services provided on or after February 1, 2003, the rate was amended to reflect the Centers for Medicare & Medicaid Services allowable rate, in accordance with 42 United States Code § 1396a(a)(13)(B) [§ 1902(a)(13)(B) of the federal Social Security Act].

AUTHORITY

Sections 10725, 14105, 14108, 14108.1, 14108.2, 14109.5, 14110.6, 14110.7, 14124.5, 14126.23 and 14570, Welfare and Institutions Code; and Section 1275.3, Health and Safety Code.

REFERENCE

Reference: Sections 14053, 14087.3, 14105, 14105.981, 14108, 14108.1, 14108.2, 14109.5, 14110.1, 14110.4, 14110.6, 14110.7, 14132, 14132.22, 14132.25, 14171 and 14571, Welfare and Institutions Code; Sections 1250 and 1275.3, Health and Safety Code; Statutes of 2002, Chapter 379, Items 4260-101-0001 and 4260-101-0890; Sections 447.15 and 483.1, et seq., Title 42, Code of Federal Regulations; 42 United States Code § 1396a(a)(13)(B) [§ 1902(a)(13)(B) of the federal Social Security Act]; and the Settlement Agreement in *California Association for Adult Day Services v. Department of Health Services*, January 12, 1994, San Francisco County Superior Court (Case Number 944047).

FISCAL IMPACT ESTIMATE

- A. Fiscal Effect on Local Government: None
- B. Fiscal Effect on State Government: As the cost of these regulations is included in the Medi-Cal base expenditures, no additional funding is required for these regulations. This increase was budgeted in the November 2002 Medi-Cal Estimate which reflected an increase in program expenditures of \$24,482,000 (\$12,241,000 General Fund) beginning in fiscal year 2002–03. This increase included funding for managed care. The full cost is estimated to have been \$30,482,000 (\$15,241,000 General Fund).
- C. Fiscal Effect on Federal Funding of State Programs: The federal financial participation for fiscal year 2002–03 was \$15,241,000.

- D. All cost impacts, known to the Department at the time the notice of emergency action was submitted to the Office of Administrative Law, that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- E. Other Nondiscretionary Cost or Savings Imposed on Local Agencies: None

DETERMINATIONS

The Department has determined that the regulations would not impose a mandate on local agencies or school districts, nor are there any costs for which reimbursement is required by Part 7 (commencing with Section 17500) of Division 4 of the Government Code.

The Department has made an initial determination that the regulations would not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Department has determined that the regulations would not significantly affect the following:

- (1) The creation or elimination of jobs within the State of California.
- (2) The creation of new businesses or the elimination of existing businesses within the State of California.
- (3) The expansion of businesses currently doing business within the State of California.

This determination is made on the basis that the regulations reflect rate changes based upon reported costs that are prospectively updated for economic indicators and adjusted for audit results.

The Department has determined that the regulations would affect small businesses since many Medi-Cal providers meet the criteria for small business. Medi-Cal is a voluntary program for both service providers and beneficiaries. Therefore, only those businesses that choose to be Medi-Cal providers of long-term care services are affected by the reimbursement rates set forth in these regulations. These regulations do not impose any additional reporting, recordkeeping, or other compliance requirements on affected businesses.

The Department has determined that the regulations will have no impact on housing costs.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF REGULATIONS

The Department has prepared and has available for public review an initial statement of reasons for the emergency regulations, all the information upon which the emergency regulations are based, and the text of

the emergency regulations. A copy of the initial statement of reasons and a copy of the text of the emergency regulations are available upon request by writing to the Office of Regulations at the address noted above, which address will also be the location of public records, including reports, documentation, and other material related to the emergency regulations (rulemaking file). Additionally, a copy of the final statement of reasons (when prepared) will be available upon request from the Office of Regulations at the address noted above. Materials regarding the emergency regulations that are available via the Internet may be accessed at <http://www.dhs.ca.gov/regulation/>.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

The full text of any regulation which is changed or modified from the express terms of the emergency action will be made available by the Department's Office of Regulations at least 15 days prior to the date on which the Department adopts, amends, or repeals the resulting regulation.

ADDITIONAL STATEMENTS AND COMMENTS

In accordance with Government Code Section 11346.5(a)(13) the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action was taken or would be as effective and less burdensome to affected private persons than the emergency action.

No hearing has been scheduled; however any interested person or his or her duly authorized representative may request in writing, no later than 15 days prior to the close of the written comment period, a public hearing pursuant to Government Code Section 11346.8.

For individuals with disabilities, the Department will provide assistive services such as sign-language interpretation, real-time captioning, note takers, reading or writing assistance, and conversion of public hearing materials into Braille, large print, audiocassette, or computer disk. To request such services or copies in an alternate format, please call or write: Lynette Cordell, Office of Regulations, MS 0015, P.O. Box 997413, Sacramento, CA 95899-7413, voice (916) 650-6827 and/or California Relay 711/1-800-735-2929. Note: The range of assistive services available may be limited if requests are received less than ten working days prior to a public hearing.

TITLE 22. DEPARTMENT OF TOXIC SUBSTANCES CONTROL

45-DAY PUBLIC NOTICE AND COMMENT PERIOD *HAZARDOUS WASTES OF CONCERN: REPORTING BY GENERATORS*

Department Reference Number: R-03-18 Office of Administrative Law

NOTICE IS HEREBY GIVEN that the Department of Toxic Substances Control (DTSC) proposes to amend sections 66261.111 and 66262.10 and add section 66262.44 to the California Code of Regulations, title 22.

These regulations would make the Hazardous Waste of Concern (HWC) reporting requirements adopted in July 2003 applicable to generators of HWC. DTSC adopted permanent emergency regulations (R-03-02) as mandated by Statutes 2002, chapter 607 (Sen. Bill No. 489 (2001–2002 Reg. Sess.) Romero), hereafter referred to as SB 489, that established reporting requirements for HWC. The provisions enacted as a result of SB 489 were intended to increase the security of HWC because of the potential to use those wastes intentionally and effectively to harm the public in a terrorist or criminal act. As such, any person, as defined in Health and Safety Code section 25118, handling HWC must report missing HWC. The permanent emergency regulations adopted in July 2003, inadvertently omitted generators of HWC. The permanent emergency regulations that were adopted in July 2003 are applicable only to transporters and treatment, storage and disposal facilities that handle HWC.

Since generators of HWC were inadvertently omitted in the permanent emergency regulations adopted in July 2003, DTSC proposes to adopt regulations that will include generators of HWC. The proposed regulations will require a generator to immediately provide a verbal notification, within 24 hours after a HWC has been discovered to be missing during storage or a difference in type has been identified when it is received at the designated facility. In addition, the generator of HWC must report missing HWC in writing within five days of discovery.

PUBLIC HEARING AND WRITTEN COMMENT PERIOD

A written comment period has been established commencing on September 9, 2005, and closing on October 24, 2005. DTSC will hold a public hearing on the proposed regulations at 10:00 a.m. on October 24, 2005 in the Byron Sher Auditorium, 2nd Floor, 1001 "I" Street, Sacramento, at which time any person may present statements or arguments orally or in writing,

relevant to this proposal. Please submit written comments to the contact person listed at the end of this notice. Written comments on the rulemaking submitted no later than 5:00 p.m. on October 24, 2005 will be considered.

Representatives of DTSC will preside at the hearing. Persons who wish to speak are requested to register before the hearing. Pre-hearing registration will be conducted at the location of the hearing from 9:30 a.m. to 10:00 a.m. Registered persons will be heard in the order of their registration. Any other person wishing to speak at the hearing will be afforded an opportunity after the registered persons have been heard.

Due to enhanced security precautions at the Cal/EPA Headquarters Building located at 1001 I Street, Sacramento, all visitors are required to sign in prior to attending any meeting. Sign-in and badge issuance occur in the Visitor and Environmental Services Center. This Center is located just inside and to the left of the building's public entrance. Depending on their destination and the building security level, visitors may be asked to show valid picture identification. Valid picture identification can take the form of a current driver's license, military identification card, or state or federal identification cards. Depending on the size and number of meetings scheduled on any given day, the security check-in could take from three to fifteen minutes. Please allow adequate time to sign in before being directed to your meeting.

If you have special accommodation or language needs, please contact Mr. Mark Abrams, Regulations Coordinator, Environmental Analysis and Regulations Section, at (916) 322-2833 or by e-mail at regs@dtsc.ca.gov by October 17, 2005. TTY/TDD users may dial 7-1-1 for the California Relay Service. Speech-to-Speech services are available by calling (800) 735-0373 or via TTY at (800) 735-0193.

AUTHORITY AND REFERENCE

These regulations are being proposed under the authority of the Health and Safety Code sections 25150 and 58012 which require that DTSC adopt and revise when appropriate regulations for the management of hazardous wastes.

Health and Safety Code section 25150. This section grants DTSC authority to adopt standards dealing with the management of hazardous waste.

Health and Safety Code section 58012. This section grants DTSC authority to adopt regulations to execute its duties.

These regulations implement, interpret, or make specific the following:

- Health and Safety Code section 25169.7.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing Law

In 2002, the Legislature adopted SB 489 in response to security concerns following the attacks of September 11, 2001. SB 489 intended to increase the security of hazardous wastes that could be intentionally used to effectively harm human health and/or the environment. SB 489 implemented requirements for "any" person handling HWC by amending Health and Safety Code section 25112.5 and adding article 6.6 beginning with section 25169.5 to chapter 6.5 of division 20 related to hazardous waste management. Further, SB 489 required DTSC to adopt regulations by July 1, 2003 that identified a list of HWC with reporting quantities that required a facility owner or operator and/or transporter to file a report with DTSC if the wastes were missing from either storage or while in transport. Health and Safety Code section 25169.7, as amended by SB 489, required any person owning or operating a hazardous waste facility that handles a HWC to submit a disclosure statement to DTSC by January 1, 2004 containing the information referenced in section 25112.5. It also required any registered hazardous waste transporter to submit a disclosure statement upon the request of DTSC.

Health and Safety Code

A person as defined in Health and Safety Code section 25118 means an individual, trust, firm, joint stock company, business concern, partnership, limited liability company, association, and corporation, including, but not limited to, a government corporation. "Person" also includes any city, county, district, commission, the state or any department, agency, or political subdivision thereof, any interstate body, and the federal government or any department or agency thereof to the extent permitted by law.

A hazardous waste facility as defined by Health and Safety Code section 25117.1 means all contiguous land and structures, other additions, and improvements on the land used for the treatment, transfer, storage, resource recovery, disposal, or recycling of hazardous waste. A hazardous waste facility may consist of one or more treatment, transfer, storage, resource recovery, disposal, or recycling hazardous waste management units, or combinations of these units.

California Code of Regulations Title 22

As mandated by SB 489, DTSC adopted implementing regulations that required a transporter, permitted facility, or interim status facility that handles HWC to report missing HWC within 24 hours and to submit a disclosure statement and fingerprints for a criminal

background check. Transporters are required to determine if they handle HWC and notify DTSC if they do or plan to in the future.

The permanent emergency regulations adopted in July 2003 in the California Code of Regulations, title 22 defined:

- HWC in section 66261.111,
- Transporter reporting requirements for missing HWC in section 66263.32
- Management requirements for missing HWC under Manifest Discrepancies in section 66264.72(c) and 66264.78 for permitted hazardous waste facilities; 66265.72(c) and 66265.78 for interim status hazardous waste facilities.

Health and Safety Code section 25169.7 requires “any” person handling any HWC to report missing HWC immediately and as specified in the regulations adopted pursuant to section 25169.6. However, the permanent emergency regulations adopted in July 2003 do not specify any requirements for generators. This ambiguity can potentially create mismanagement of HWC by generators of hazardous wastes.

Current regulations in California Code of Regulations, title 22, chapter 12, article 1, require that generators must comply with section 66261.111 for determining whether or not the waste is hazardous, 66262.40(c) and (d) for record keeping and 66262.43 for additional reporting when applicable.

There are no federal requirements to address HWC.

POLICY STATEMENT OVERVIEW

These regulations will expand the scope of applicability of the HWC permanent emergency regulations that were adopted by DTSC on July 1, 2003 (DTSC reference number R-03-02) to apply to “any person handling hazardous waste of concern,” as required by Senate Bill 489. The provisions enacted by SB 489 were intended to increase the security of HWC because of the potential to use those wastes to intentionally harm human health and or the environment.

PROPOSED REGULATIONS

The proposed regulations will require each generator handling HWC to report missing HWC by phone within 24 hours and in writing within five days. This requirement is not anticipated to be a significant increase in economic impact because generators are currently required to submit exception reports to DTSC if they do not receive a copy of the manifest back from the receiving facility within 35 days. As such, generators have an established procedure for filing reports with DTSC.

It is anticipated that generators will be able to comply with the proposed regulations using existing staff and resources since identification of wastes is inherent with their operation in order to properly handle materials for safety as well as for compliance with existing requirements.

The proposed regulations are consistent with the Hazardous Materials Transportation Act of 1994 of title 49 of the United States Code and are based on the risk management criteria implicit in the establishment of the Hazardous Materials Table and related regulations by United States Department of Transportation.

If DTSC determines that the regulations adopted could be preempted by revisions to the Hazardous Materials Transportation Authorization Act of 1994, DTSC will apply to the Secretary of Transportation for a waiver of preemption pursuant to subsection (e) of section 5125 of title 49 of the United States Code and in accordance with Health and Safety Code section 25169.7(d).

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) COMPLIANCE

DTSC anticipates that this rulemaking will be exempt from CEQA under California Code of Regulations, title 14, section 15061(b)(3). The changes resulting from this rulemaking result in an increase in reporting requirements. The reporting requirements do not have the potential to cause significant adverse environmental effects. As such, a draft Notice of Exemption will be available for review with the rulemaking file and will be filed with the State Clearinghouse when the regulations are adopted.

PEER REVIEW

Under the provisions of Health and Safety Code section 57004, peer review is not required because the proposed regulations do not establish a regulatory level, standard or other requirement subject to scientific peer review.

BUSINESS REPORT

A generator handling HWC must report missing HWC by phone within 24 hours and in writing within five days. This requirement is not anticipated to be a significant increase in economic impact because generators are currently required to submit exception reports to DTSC if they do not receive a copy of the manifest back from the receiving facility within 35 days. DTSC finds the reports required by the proposed regulations are necessary for the protection of public health and the environment.

FISCAL IMPACT ESTIMATES

Mandates on Local Agencies and School Districts: DTSC has made a preliminary determination that adoption of these regulations will create no new local mandates.

Estimate of Potential Cost or Savings to Local Agencies Subject to Reimbursement: DTSC has made a preliminary determination that adoption of these regulations will not impose a local mandate or result in costs subject to reimbursement pursuant to part 7 of division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or savings to local agencies.

Cost or Savings to Any State Agency: DTSC has made a preliminary determination that the proposed regulations will have no impact on State revenue or costs.

Cost or Savings in Federal Funding to the State: DTSC has made a preliminary determination that the proposed regulations will have no impact on Federal revenue or costs.

Effect on Housing Costs: DTSC has made an initial determination that there will be no impact on housing costs.

Cost Impacts on Representative Private Persons or Businesses: The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant Statewide Adverse Economic Impact on Businesses: DTSC has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability to compete with businesses in other states.

Assessment Statement:

- (A) Creation or elimination of jobs within California—DTSC has made a preliminary determination that no jobs will be created or eliminated in California as a result of the proposed regulations.
- (B) Creation of new businesses or the elimination of existing businesses within California—DTSC has made a preliminary determination that no businesses will be created or eliminated in California as a result of the proposed regulations.
- (C) Expansion of businesses currently doing business in California—DTSC has made a preliminary determination that no businesses in California will be expanded as a result of the proposed regulations.

Effect on Small Businesses: DTSC has determined that provisions of this rulemaking may have a minor effect on small businesses.

CONSIDERATION OF ALTERNATIVES

DTSC must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DTSC would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action. DTSC invite interested persons to present arguments, with respect to the various options, at the scheduled hearing, or during the written comment period.

AVAILABILITY OF TEXT OF REGULATIONS AND STATEMENT OF REASONS

Copies of the Notice, Initial Statement of Reasons and the text of the proposed regulations are posted to DTSC's Internet site at <http://www.dtsc.ca.gov> or may be obtained from Mr. Mark Abrams of DTSC's Environmental Analysis and Regulations Section as specified below. The information upon which DTSC relied is also available at the address listed below.

POST-HEARING CHANGES

After the close of the comment period, DTSC may adopt the proposed regulations. If substantial changes are made, the modified text will be made available for comment for at least 15 days prior to adoption. Only persons who request the specific proposed regulations, attend the hearing, or provide written comments on these specific regulations will be sent a copy of the modified text, if substantive changes are made.

Once regulations have been adopted, DTSC prepares a Final Statement of Reasons which updates the Initial Statement of Reasons, summarizes how DTSC addressed comments and includes other materials, as required by Government Code section 11346.9. Copies of the Final Statement of Reasons may be obtained from Mr. Mark Abrams at the address listed below. A copy of the Final Statement of Reasons will also be posted on DTSC's Internet site at <http://www.dtsc.ca.gov>, along with the date the rulemaking is filed with the Secretary of State and the effective date of the regulations.

CONTACT PERSONS

Inquiries regarding technical aspects of the proposed regulations or CEQA documents may be directed to Hortensia Muniz of DTSC at (916) 324-1818 or, if unavailable, Mr. Jan Radimsky of DTSC at (916) 324-1819. However, such oral inquiries are not part of the rulemaking record.

Statements, arguments or contentions regarding the rulemaking and/or supporting documents must be submitted in writing or may be presented orally or in writing at the public hearing in order for them to be considered by DTSC before it adopts, amends or repeals these regulations. To be included in this

regulation package's mailing list, and to receive updates of this rulemaking, please leave a message on the DTSC mailing list phone line at (916) 324-9933 or e-mail: regs@dtsc.ca.gov.

Please direct all written comments, procedural inquiries and requests for documents by mail, e-mail or fax to:

Mr. Mark Abrams, Regulations
Coordinator
Environmental Analysis and
Regulations Section
Department of Toxic
Substances Control

Mailing Address: P.O. Box 806
Sacramento, CA 95812-0806

E-mail Address: regs@dtsc.ca.gov

Fax Number: (916) 323-3215

Mr. Abrams' phone number is (916) 322-2833. If Mr. Abrams is unavailable, please call Ms. Nicole Sotak at (916) 327-4508 or Mr. James McRitchie at (916) 327-8642.

GENERAL PUBLIC INTEREST

AIR RESOURCES BOARD

NOTICE OF PUBLIC MEETING TO CONSIDER PUBLIC COMMENT ON THE JUNE 24, 2005, ARB/RAILROAD STATEWIDE AGREEMENT FOR A PARTICULATE EMISSIONS REDUCTION PROGRAM AT CALIFORNIA RAIL YARDS, AND TO TAKE ACTION AS APPROPRIATE

The Air Resources Board (ARB or Board) will conduct a public meeting at the time and place noted below to consider public comment on the "ARB/Railroad Statewide Agreement for a Particular Emissions Reduction Program at California Rail Yards" (the "Agreement"). The Agreement was entered into on June 24, 2005, by the BNSF Railway Company, the Union Pacific Railroad Company, and ARB's Executive Officer on behalf of ARB.

Date: September 22, 2005

Time: 2:00 p.m. to 5:00 p.m. and
6:00 p.m. to 9:00 p.m.

Place: Embassy Suites LAX North
9801 Airport Boulevard
Los Angeles, California 90045

This item will be considered at a one-day meeting of the Board, which will consist of two sessions. At the start of the public meeting (at 2:00 p.m.), staff will present background information about the use of voluntary agreements at ARB and the staff's overall

strategy for addressing railroad related emissions. Staff will then describe the circumstances leading to the June 24 Agreement with the railroads and the specific provisions of the Agreement. Following staff's presentation and Board member questions, the proceeding will be opened to public testimony. Staff will recap the afternoon's discussion when the meeting reconvenes after dinner (6:00 p.m.) and then continue with public testimony.

After hearing all public comments, the Board may consider a number of options regarding the Agreement, including but not limited to expressing support for the Agreement, directing the Executive Officer to engage in further negotiations with the railroads to achieve specified modifications and then report back to the Board for potential ratification, or voting to rescind the Agreement.

The Agreement establishes ten statewide program elements to reduce particulate emissions from locomotives at the state's rail yards, including:

- reducing locomotive idling through operational controls and accelerated introduction of automatic idling control devices;
- expediting the introduction of ultra low sulfur diesel fuel in locomotives;
- ensuring that smoking locomotives are systematically identified and promptly repaired;
- expeditiously identifying and pursuing feasible measures that can reduce air emissions from rail yards, with substantial community involvement;
- conducting risk assessments from the release of toxic air contaminants at 17 designated rail yards in the state, with public participation in the development of risk assessment criteria and subsequent updating of feasible mitigation measures that should be taken;
- working cooperatively to seek any available private and public funding sources for mitigation components in the Agreement;
- evaluating remote sensing to identify high-emitting locomotives;
- ensuring that evaluation and implementation of other medium-term and longer-term feasible mitigation measures continue expeditiously;
- developing and implementing effective compliance reporting mechanisms for all program elements; and
- ensuring compliance of the program elements through an enforcement and penalty program.

The Agreement also provides that after meeting and conferring with ARB and providing 30-days notice, the participating railroads may elect to be released from their obligations under a specific program element if an agency or political subdivision of California adopts or attempts to enforce any require-

ment addressing the goal of that program element, or the United States Environmental Protection Agency adopts or attempts to enforce more stringent requirements addressing the goal of the program element. The release clause does not terminate the Agreement in its entirety.

The Agreement further provides that nothing in the Agreement modifies any existing rights of the community or any person or entity (including air districts) not a party to the Agreement.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

Copies of the Agreement may be obtained from ARB's Internet site at <http://www.arb.ca.gov/railyard>, or from the Board's Public Information Office, 1001 "I" Street, 1st Floor, Environmental Services Center, Sacramento, California 95814, (916) 322-2990.

Interested members of the public may present comments orally or in writing at the meeting, and in writing or by email before the meeting. To be considered by the Board, written comments or submissions not physically submitted at the meeting must be received **no later than 12:00 noon, September 21, 2005**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board
Air Resources Board
1001 "I" Street, 23rd Floor
Sacramento, California 95814

Electronic mail is to be sent to ry2005@listserv.arb.ca.gov and received at ARB **no later than 12:00 noon, September 21, 2005**.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at ARB **no later than 12:00 noon, September 21, 2005**.

The Board requests, but does not require, 30 copies of any written submission. Also, ARB requests that written and email statements be filed at least 10 days prior to the meeting so that ARB staff and Board members have time to fully consider each comment. Further inquiries regarding this matter should be directed to Mr. Dean C. Simeroth, Chief, Criteria Pollutants Branch, at (916) 322-6020 or dsimerot@arb.ca.gov.

DEPARTMENT OF FISH AND GAME

CESA CONSISTENCY DETERMINATION FOR 23 Repair Sites along the L200 Pipeline, ConocoPhillips, Contra Costa County

The Department of Fish and Game ("Department") received notice on August 25, 2005 that the ConocoPhillips Pipeline Company proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of repair of 23 sites along the "Line 200" pipeline in eastern Contra Costa County. The activities include excavating the existing pipeline to uncover the point of defect, which will impact habitat for San Joaquin kit fox (*Vulpes macrotis mutica*) and Alameda whipsnake (*Masticophis lateralis euryxanthus*).

The U.S. Fish and Wildlife Service, on August 22, 2005, issued to the Office of Pipeline Safety Research and Special Programs Administration a no jeopardy federal biological opinion (1-1-05-F-0203) which considers the federally endangered and state threatened San Joaquin kit fox and the federally and state threatened Alameda whipsnake and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, ConocoPhillips is requesting a determination that the federal biological opinion 1-1-04-F-0088 is consistent with CESA. If the Department determines that the biological opinion is consistent with CESA, ConocoPhillips will not be required to obtain an incidental take permit (Fish and Game Code Section 2081(b)) for the proposed project.

DEPARTMENT OF FISH AND GAME

CESA CONSISTENCY DETERMINATION FOR State Route 70/Algodon Road Interchange Yuba County

The Department of Fish and Game ("Department") received a notice on August 26, 2005 that Yuba County proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of the realignment of Algodon Road and the construction of an interchange at Algodon Road's junction with State Route (SR) 70. The activities will result in temporary impacts to 6.55 acres and permanent impacts to 40.12 acres of giant garter snake (*Thamnophis gigas*) habitat.

The U.S. Fish and Wildlife Service (USFWS), on September 13, 2004, issued to the Federal Highway Administration (FHWA), a no jeopardy federal biological opinion (1-1-03-F-0202) which considers the Federally and State threatened giant garter snake, and authorizes incidental take. The USFWS amended the biological opinion on December 10, 2004 (1-1-05-F-0019).

Pursuant to California Fish and Game Code Section 2080.1, Yuba County is requesting a determination that federal biological opinion 1-1-03-F-0202, as amended by 1-1-05-F-0019 is consistent with CESA. If the Department determines that the federal biological opinion is consistent with CESA, Yuba County will not be required to obtain an incidental take permit for the proposed project.

DECISION NOT TO PROCEED

CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

Pursuant to Government Code section 11347, the California Integrated Waste Management Board is providing notice that it has decided not to proceed at this time with its Proposed Amendments to The Transfer/Processing Operations And Facilities Regulatory Requirements To Address Conversion Technology Operations And Facilities (Title 14 California Code of Regulations, Division 7, Chapter 3, Article 6.0, commencing with section 17400) based upon the need to await further statutory clarification from the Legislature regarding the statutory provisions that these regulations were intended to implement. Therefore, Notice File No. Z04-1007-01, published October 22, 2004, in the California Regulatory Notice Register 2004, No. 43-Z is being withdrawn. This Notice of Decision Not To Proceed will also be published on the Board's website at www.ciwmb.ca.gov.

RULEMAKING PETITION DECISIONS

DEPARTMENT OF INSURANCE

DENIAL OF PETITION FOR RULEMAKING (Government Code § 11340.7)

By letter dated August 9, 2005, Sharon J. Arkin, as President, and Frank M. Pitre, as President-Elect, of the Consumer Attorneys of California ("Petitioners") petitioned the Insurance Commissioner of the State of

California (the "Commissioner") requesting adoption of a regulation. The Petitioners seek to have the Commissioner promulgate a regulation to require insurers to give testimony under oath in rate-making deliberations, in rulemaking hearings, and in market conduct examination and consumer complaint reviews. Further, anyone providing information in these circumstances would be required to certify also that she was not failing to disclose a pertinent fact.

Notice is hereby given that the Commissioner denies the Petition for the reasons set forth below.

PROVISIONS OF THE CODE OF REGULATIONS REQUESTED TO BE AFFECTED

Title 10, California Code of Regulations, Chapter 5.

AUTHORITY AND REFERENCE CITED IN THE PETITION

California Insurance Code sections 790.10, 1861.02(e) and 14013.

REASONS SUPPORTING THE DEPARTMENT'S DETERMINATION

Petitioners state that California Insurance Code sections 790.10, 1861.02(e) and 14013 provide authority for the Commissioner to promulgate the requested regulation.

Section 790.10 provides the Commissioner with the authority to promulgate reasonable rules and regulations as necessary to administer Division 1, Part 2, Chapter 1, Article 6.5 of the Insurance Code, Unfair Practices.

Section 1861.02(e) provides the Commissioner with the authority to promulgate regulations implementing rate regulation and determination of rates.

Section 14013 provides the Commissioner with the authority to adopt and enforce reasonable rules pertaining to adjusters.

Petitioners' request is denied, as the rulemaking they advocate would fail to meet the authority and necessity standards required by Government Code section 11349.1.

Government Code section 11342.1 requires that each regulation adopted by state agency be within the scope of authority conferred upon the agency. Government Code section 11342.2 requires that a regulation be reasonably necessary to effectuate the purpose of the statute.

Petitioners indicate that the regulation they urge the Commissioner to promulgate is necessary because, they claim, the current system is inherently unreliable, unfair to consumers and potentially damaging to licensees who are truthful and forthright. However, Petitioners fail to provide any specific evidence that would demonstrate the existence of any such unfairness, lack of reliability or potential harm in this State.

With regard to ratemaking, rate filings submitted by a licensee are currently required to be submitted under penalty of perjury. Consequently Petitioners' suggested regulation is unnecessary to the extent that this is its goal.

With regard to rulemaking, the Department of Insurance does not have the authority to promulgate a regulation governing its rulemaking hearings. Rule-making procedures are set out in the Government Code, and any attempt to specify in a regulation rulemaking procedures to be followed by the Department would be beyond the scope of the rulemaking authority granted to the Department, which does not generally have authority to promulgate regulations interpreting the Government Code.

With regard to the consumer complaint process, Insurance Code section 790.03 to a great extent addresses Petitioners' concerns. In administrative proceedings pursuant to this statute, testimony is already required to be given under oath. Petitioners have not indicated how the requested regulation is necessary to administer the Unfair Practices Act.

As Petitioners' proposed regulation is unnecessary to effectuate the purposes of the Insurance Code, and exceeds the scope of the Commissioner's rulemaking authority, Petitioners' request is denied.

AGENCY CONTACT PERSON

George Teekell, Staff Counsel
California Department of Insurance
45 Fremont Street, 21st floor
San Francisco, CA 94105

OBTAINING COPIES OF THE PETITION

Interested persons have a right to obtain a copy of the Petition for Rulemaking and may do so by requesting a copy from the Agency Contact Person.

DISAPPROVAL DECISIONS

DECISIONS OF DISAPPROVAL OF REGULATORY ACTIONS

Printed below are the summaries of Office of Administrative Law disapproval decisions. Disapproval decisions are available at www.oal.ca.gov. You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339; (916) 323-6225; FAX (916) 323-6826. Please request by OAL file number.

STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW (Gov. Code Section 11349.3) OAL File No. 05-0715-03 S

DECISION OF DISAPPROVAL OF REGULATORY ACTION

In re:

**AGENCY: BOARD FOR PROFESSIONAL
ENGINEERS AND LAND SURVEYORS**

**ACTION: Amend sections 404 and 424 and Repeal
section 460 of title 16 of the California Code of
Regulations**

BACKGROUND

The Board for Professional Engineers and Land Surveyors ("Board") proposed changes to the definitions of various Board approved curricula and an increase in the years of experience credit available to some engineering students who graduate from an approved post-graduate curriculum. On July 15, 2005, these changes were submitted by the Board to OAL for review and on August 25, 2005, OAL disapproved the proposed changes. This Decision of Disapproval explains the reason for OAL's action.

August 25, 2005

David Potter
Senior Staff Counsel

For: William L. Gausewitz
Director

Original: Cindy Christenson, P.E., Executive Officer

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

AIR RESOURCES BOARD

Thermal Spraying

This regulatory action adopts an airborne toxic control measure (ATCM) to reduce emissions of hexavalent chromium and nickel from thermal spray-

ing. The ATCM will require the use of best available control technology (BACT) when conducting thermal spraying. The adopted ATCM applies to thermal spraying operations at any stationary source that uses materials containing chromium, chromium compounds, nickel, or nickel compounds, requires the use of BACT in consideration of risk and cost, establishes hourly emissions limits for nickel for existing, modified, and new facilities, and establishes record-keeping, monitoring, and reporting requirements.

Title 17

California Code of Regulations

ADOPT: 93102.5

Filed 08/31/05

Effective 09/30/05

Agency Contact:

Robert C. Jenne (916) 322-2884

BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Definitions of Responsible Charge

This regulatory action clarifies the definition of "responsible charge."

Title 16

California Code of Regulations

AMEND: 404.1, 404.2

Filed 08/29/05

Effective 09/28/05

Agency Contact:

Nancy A. Eissler (916) 263-2241

BOARD FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Citations of Licensed Persons

In this regulatory action, the Board of Professional Engineers and Land Surveyors amends a regulation entitled "Citations of Licensed Persons" to modify a requirement pertaining to review prior to the issuance of citations.

Title 16

California Code of Regulations

AMEND: 473

Filed 08/25/05

Effective 09/24/05

Agency Contact:

Nancy A. Eissler (916) 263-2241

CALIFORNIA ARTS COUNCIL

Conflict of Interest Code

The California Arts Council is amending its conflict of interest code found at title 2, division 8, chapter, 6, section 27000, California Code of Regulations. The amendment was approved for filing by the Fair Political Practices Commission on July 11, 2005.

Title 2

California Code of Regulations

AMEND: Div. 8, Ch. 6, Sec. 27000

Filed 08/29/05

Effective 09/28/05

Agency Contact: Janet Cran (916) 322-6335

CALIFORNIA HORSE RACING BOARD

Entry of Claimed Horse

Existing regulation provides that any horse claimed out of a claiming race is not eligible to race in any State other than California until the close of the meeting where it was claimed except in a stakes race. This regulatory action would revise this prohibition to extend for another 60 days after the close of the meeting and also clarifies that the California State Fair Circuit is considered one meeting.

Title 4

California Code of Regulations

AMEND: 1663

Filed 08/24/05

Effective 08/24/05

Agency Contact: Harold Coburn (916) 263-6397

DEPARTMENT OF FISH AND GAME

Marine Aquaria Receiver's License/Commercial

Salmon Vessel Permit

The Department is amending its Commercial Salmon Vessel Permit fee pursuant to the specific formula and method prescribed in statute (Fish and Game Code section 713) and repealing its regulation on Marine Aquaria Receiver's License Fee to avoid conflict with the fee amount in statute (Fish and Game Code section 8033.2).

Title 14

California Code of Regulations

AMEND: 183 REPEAL: 188

Filed 08/24/05

Effective 08/24/05

Agency Contact:

Jerilyn Santillan (916) 227-0564

DEPARTMENT OF HEALTH SERVICES

Long Term Care Rates Fiscal Year 2002-03

This regulatory action adopts long-term care rates for the 2002-2003 rate year for which the Legislature enacted funding in the 2002-2003 Budget Act, Items 4260-101-0001 and 4260-101-0890 (Stats. 2002, ch. 379). This regulatory action is deemed an emergency necessary for the immediate preservation of the public peace, health, and safety and general welfare pursuant to subdivision (a) of Welfare and Institutions Code section 14105.

Title 22

California Code of Regulations

AMEND: 51510, 51510.1, 51511, 51511.5, 51511.6, 51535, 51535.1, 51544, 54501

Filed 08/24/05
 Effective 08/24/05
 Agency Contact:
 Lynette Cordell (916) 650-6827

FISH AND GAME COMMISSION
Ocean Salmon Fishing—Continuation

This regulatory action sets a quota of 1,262 for fall-run king salmon over 22 inches in the Klamath River Basin for 2005, adds some days-of-the-week retainment restrictions, makes a change to the hook gap restrictions, and adds one brown trout to the daily bag limit on two segments of the Trinity River.

Title 14
 California Code of Regulations
 AMEND: 7.50(b)(91.1)
 Filed 08/26/05
 Effective 08/26/05
 Agency Contact: Jon Snellstrom (916) 653-4899

NEW MOTOR VEHICLE BOARD
Subpoenas, Requests for Discovery

This is a nonsubstantive change amending references in the regulation to statutes due to reorganization of those statutes, specifically, the Code of Civil Procedure (Stats. 2004, Ch. 182).

Title 13
 California Code of Regulations
 AMEND: 551.2, 551.15
 Filed 08/24/05
 Effective 08/31/05
 Agency Contact:
 Howard Weinberg (916) 445-2080

OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD
Employee Alarm Systems

In this regulatory action, the Occupational Safety and Health Standards Board amends a regulation pertaining to employee alarm systems (such as fire alarms) in the workplace.

Title 8
 California Code of Regulations
 AMEND: 6184
 Filed 08/25/05
 Effective 09/24/05
 Agency Contact: Marley Hart (916) 274-5721

PHYSICAL THERAPY BOARD OF CALIFORNIA
Model Guidelines for Citations and Discipline

This regulatory action updates the “Model Guidelines for Issuing Citations and Imposing Discipline.”

Title 16
 California Code of Regulations
 AMEND: 1399.15

Filed 08/25/05
 Effective 09/24/05
 Agency Contact: Rebecca Marco (916) 263-2550

CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN APRIL 6, 2005
TO AUGUST 31, 2005

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation’s titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 2

08/29/05 AMEND: Div. 8, Ch. 6, Sec. 27000
 08/15/05 AMEND: 51000
 08/09/05 ADOPT: 59520
 08/04/05 AMEND: 2271
 07/27/05 ADOPT: Div. 8, Ch. 23, Sec. 44000
 07/20/05 AMEND: 18570
 07/20/05 ADOPT: 18530.7
 07/18/05 AMEND: 18452
 07/18/05 AMEND: 55400
 07/06/05 AMEND: 7286.0
 06/24/05 AMEND: 599.502, 599.506
 06/21/05 AMEND: 18705.5
 06/16/05 AMEND: Div. 8, Ch. 4, section 25001
 06/14/05 ADOPT: 18750.2, 18755 AMEND: 18702.4
 05/31/05 ADOPT: 1859.300, 1859.301, 1859.302, 1859.310, 1859.311, 1859.312, 1859.313, 1859.314, 1859.315, 1859.316, 1859.317, 1859.318, 1859.319, 1859.320, 1859.321, 1859.322, 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.325, 1859.326, 1859.327, 1859.328, 185
 05/27/05 AMEND: 20107
 05/27/05 AMEND: 1859.2
 05/26/05 ADOPT: 18465.1
 05/26/05 AMEND: 1859.2, 1859.81, 1866
 05/24/05 ADOPT: 1859.23 AMEND: 1859.2, 1859.122, 1859.123, 1859.123.1
 05/12/05 ADOPT: 1859.71.4, 1859.78.1 AMEND: 1859.2, 1859.73.2, 1859.79.2, 1859.82, 1859.83, 1859.125, 1859.125.1, 1859.145, 1859.163.1, 1859.164.2
 05/03/05 ADOPT: 20800.1, 20800.2, 20800.3, 20800.4, 20800.5 20800.6, 20800.7, 20800.8, 20800.9, 20801.1, 20801.2, 20801.3 AMEND: 20800, 20801, 20802

05/02/05 ADOPT: 18640 AMEND: 18941.1,
18946, 18946.1, 18946.2, 18946.4
04/26/05 AMEND: 1859.2, 1859.42
04/19/05 AMEND: 172.4, 172.5, 172.6, 172.7,
172.8, 172.9, 172.10

Title 3

08/12/05 AMEND: 3700(c)
08/08/05 ADOPT: 1811, 1812, 1850 AMEND:
1804, 1806, 1808, 1831, 1930, 1931,
1932, 1940, 1941, 1942, 1943, 1944,
1945, 1946, 1950 REPEAL: 1809, 1810,
1851, 1851.1, 1870.1, 1870.2, 1871,
1872, 1873, 1951, 1960, 1961
07/21/05 AMEND: 6400
07/11/05 AMEND: 3423(b)
07/01/05 AMEND: 2311(b)
06/27/05 ADOPT: 3591.18
06/22/05 AMEND: 3430(b)
06/09/05 ADOPT: 3700
06/03/05 ADOPT: 3963
05/23/05 AMEND: 3636(a)(c)
05/16/05 AMEND: 6388
05/09/05 ADOPT: 1392.2(t), 1392.4(h), 1392.4(i),
1392.4(j), 1392.9(c), 1392.9(d),
04/15/05 AMEND: 1446.9(c), 1454.16(c)

Title 4

08/24/05 AMEND: 1663
08/17/05 AMEND: 1976.9
08/08/05 AMEND: 1887
06/27/05 ADOPT: 10175, 10176, 10177, 10178,
10179, 10180, 10181, 10182, 10183,
10184, 10185, 10186, 10187, 10188,
10189, 10190, 10191
05/26/05 ADOPT: 7030, 7031, 7032, 7033, 7034,
7035, 7036, 7037, 7038, 7039, 7040,
7041, 7042, 7043, 7044, 7045, 7046,
7047, 7048, 7049, 7050
04/27/05 AMEND: 1844, 1845

Title 5

08/22/05 AMEND: 850, 851, 852, 853, 853.5, 854,
855, 857, 858, 859, 861, 862, 863, 864,
864.5, 865, 866, 867, 867.5, 868870
08/16/05 ADOPT: 1207.5 AMEND: 1200, 1203,
1204.5, 1206, 1207, 1209, 1210, 1211,
1211.5, 1215, 1215.5, 1216, 1217, 1225
08/01/05 ADOPT: 15140, 15141
07/28/05 ADOPT: 1030.5, 1030.6, 1030.7, 1030.8
07/12/05 AMEND: 22000
06/23/05 ADOPT: 11992, 11993, 11994
06/22/05 ADOPT: 11967.6, 11967.7, 11967.8
AMEND: 11967, 11968, 11969
06/20/05 ADOPT: 19817.1, 19826.1, 19828.1,
19837 AMEND: 19813, 19814, 19814.1,
19817, 19826, 19828

06/09/05 ADOPT: 11511.6, 11516.6, 11516.7,
11517.5 AMEND: 11510, 11511,
11515.5, 11512, 11512.5, 11513, 11513.5,
11514, 11516, 11516.5, 11517

06/08/05 ADOPT: 17101 AMEND: 9531
06/01/05 AMEND: 41500, 41503, 41504, 41505
05/26/05 AMEND: 80413
05/26/05 AMEND: 30060
05/06/05 ADOPT: 18092.5 AMEND: 18066,
18069, 18078, 18081, 18083, 18084,
18092, 18103, 18106, 18109, 18110
05/06/05 ADOPT: 18220.2, 18224.2, 18224.4,
1840.5, 18249 AMEND: 18220, 18240,
18248
05/06/05 ADOPT: 3075.1, 13075.2, 13075.3,
13075.4 AMEND: 13075
05/06/05 ADOPT: 19850, 19851, 19852, 19853,
19854 AMEND: 19813, 19814, 19814.1
05/05/05 ADOPT: 80021, 80021.1
04/14/05 AMEND: 19836

Title 8

08/25/05 AMEND: 6184
08/22/05 ADOPT: 3395
08/10/05 AMEND: 8615
08/09/05 AMEND: 6251
08/02/05 ADOPT: 5022.1 AMEND: 4968
08/02/05 AMEND: 770
07/28/05 AMEND: 1529, 1535, 5190, 5210, and
8358
06/28/05 AMEND: 3541, 3542, 3543, 3544, 3545,
3546, 3548, 3549
06/20/05 AMEND: 3649, 3651(a)
06/20/05 ADOPT: 9767.1, 9767.2, 9767.3, 9767.4,
9767.5, 9767.6, 9767.7, 9767.8, 9767.9,
9767.10, 9767.11, 9767.12, 9767.13,
9767.14
06/15/05 AMEND: 1670(b)(11)(B)
06/10/05 ADOPT: 9785.4, 9805.1 AMEND: 9725,
9726, 9727, 9785, 9785.2, 9785.3, 9805,
10150, 10152, 10156, 10158, 10160,
10161, 10163, 10165.5 REPEAL: 10151,
10154
06/10/05 ADOPT: 9768.1, 9768.2, 9768.3, 9768.4,
9768.5, 9768.6, 9768.7, 9768.8, 9768.9,
9768.10, 9768.11, 9768.12, 9768.13,
9768.14, 9768.15, 9768.16, 9768.17
06/06/05 ADOPT: 10133.50, 10133.51, 10133.52,
10133.53, 10133.54, 10133.55, 10133.56,
10133.57, 10133.58, 10133.59, 10133.60
05/31/05 ADOPT: 32032, 32033, 32034, 32035,
32606, 32607, 32608, 32609, 81000,
81005, 81010, 81020, 81030, 81040,
81050, 81055, 81060, 81065, 81070,
81075, 81080, 81090, 81100, 81105,

81110, 81115, 81120, 81125, 81130,
81135, 81140, 81145, 81150, 81155,
81160,
05/24/05 AMEND: 3999
05/12/05 AMEND: 9789.11
04/29/05 AMEND: 3456
04/28/05 AMEND: 1637
04/19/05 REPEAL: 16003
04/14/05 AMEND: 8354, 8397.10, 8397.11,
8397.12, 8397.13.
04/06/05 AMEND: 230.2
04/06/05 ADOPT: 9792.6, 9792.7, 9792.8, 9792.9,
9792.10, 9792.11 REPEAL: 9792.6

Title 10

07/07/05 AMEND: 4010, 4011, 4013, 4016, 4018,
4019, 5000, 5001, 5002, 5003, 5005,
5006, 5007, 5008, 5009, 5010, 5013,
5020, 5050, 5051, 5060, 5061, 5070,
5110, 5111, 5112, 5113, 5114, 5115,
5116, 5117, 5118, 5119, 5260, 5261,
5262, 5263, 5264, 5266, 5267, 5268,
06/30/05 AMEND: 2699.6600, 2699.6809
06/23/05 AMEND: 2498.6
06/22/05 AMEND: 260.102.14
06/03/05 AMEND: 2698.70, 2698.71
06/03/05 AMEND: 2698.61, 2698.62
05/05/05 ADOPT: 2805, 2805.5, 2805.9, 2805.11,
2806, 2807, 2807.1, 2807.2, 2807.3,
2807.4, 2808, 2809, 2809.1, 2809.2,
2809.3, 2809.5, 2810, 2810.5, 2811
AMEND: 2814 REPEAL: 2805, 2805.1,
2805.1.5, 2806, 2806.5, 2810, 2810.1,
2810.2, 2810.3, 2810.4, 2810.6, 28
04/29/05 AMEND: 2698.30, 2698.31, 2698.32,
2698.33, 2698.34, 2698.35, 2698.36,
2698.37, 2698.38, 2698.39, 2698.40,
2698.41 REPEAL: 2698.40, 2698.41,
2698.42, 2698.43, 2698.44, 2698.45

Title 11

08/22/05 AMEND: 1001, 1002, 1007
08/22/05 AMEND: 1002, 1007, 1018, 1008, 1015
08/12/05 AMEND: 1005, 1060
08/01/05 AMEND: 1005, 1014
07/28/05 ADOPT: 720, 721, 722, 723, 724,
06/24/05 AMEND: 63.2
06/15/05 AMEND: 1005, 1007, 1008
06/15/05 AMEND: 1053
06/13/05 ADOPT: 308, 312.1 AMEND: 300, 301,
302, 303, 304, 305, 306, 307, 310, 311,
312
05/11/05 ADOPT: 61.9
05/09/05 ADOPT: 28.4
05/04/05 ADOPT: 61.8
05/04/05 ADOPT: 51.23
05/04/05 AMEND: 51.2
05/04/05 AMEND: 51.7

05/04/05 ADOPT: 51.25
05/03/05 AMEND: 51.15
05/03/05 AMEND: 51.14
05/03/05 AMEND: 51.24
05/03/05 AMEND: 51.12

Title 12

06/14/05 AMEND: 503(f)

Title 13

08/24/05 AMEND: 551.2, 551.15
08/18/05 AMEND: 2754
08/16/05 AMEND: 345.39, 345.45, 345.56, 345.78
08/11/05 AMEND: 423.00
08/08/05 AMEND: 2185
08/02/05 AMEND: 2450, 2451, 2452, 2454, 2455,
2456, 2457, 2458, 2459, 2460, 2461,
2462, 2463, 2464, 2465
07/28/05 AMEND: 25.15, 25.18, 25.19, 25.21,
25.22
07/27/05 AMEND: 350.24
07/19/05 ADOPT: 15.04
05/31/05 AMEND: 551.1, 551.6, 555, 558, 560,
561, 580, 583, 585, 586, 595, 597
05/03/05 ADOPT: 159.10

Title 13, 17

07/05/05 ADOPT: 2299 (Title 13), 93117 (Title 17)
AMEND: 2281 (Title 13), 2282
(Title 13), 2284 (Title 13)

Title 14

08/26/05 AMEND: 7.50(b)(91.1)
08/24/05 AMEND: 183 REPEAL: 188
08/23/05 AMEND: 230
08/23/05 AMEND: 7.50
08/08/05 ADOPT: 4970.02, 4970.03, 4970.04,
4970.05, 4970.06, 4970.07, 4970.08,
4970.09, 4970.10, 4970.11, 4970.12,
4970.13, 4970.14, 4970.15, 4970.16,
4970.17, 4970.18, 4970.19, 4970.20,
4970.21 AMEND: 4970.00, 4970.01 RE-
PEAL: 4970.02, 4970.03, 4970.04,
4970.05
08/05/05 ADOPT: 1052.4 AMEND: 895.1, 1052,
1052.1
07/21/05 AMEND: 18419
07/19/05 AMEND: 354, 360, 361, 362, 363, 478.1,
708
07/13/05 AMEND: 122 REPEAL: Appendix A,
Form DFG 122
06/21/05 AMEND: 895, 895.1, 1038, 1038(f)
06/09/05 AMEND: 782
06/09/05 AMEND: 27.80
05/12/05 AMEND: 180.3
05/12/05 AMEND: 120.01
05/11/05 AMEND: 150.05
05/11/05 AMEND: 601
05/11/05 AMEND: 231

05/11/05 AMEND: 180.15
 05/11/05 AMEND: 150.03
 05/10/05 AMEND: 551
 05/10/05 AMEND: 150
 05/10/05 AMEND: 150.02
 05/05/05 AMEND: 165
 04/25/05 AMEND: 851.23
 04/25/05 ADOPT: 18456.2.1, 18460.2.1 AMEND:
 18449, 18450, 18451, 18456, 18459,
 18459.1, 18459.2.1, 18459.3, 18461,
 18462
 04/25/05 ADOPT: 1038(i) AMEND: 1038(e)
 04/22/05 AMEND: 149.1
 04/19/05 AMEND: 670.2
 04/13/05 AMEND: 2030, 2305, 2310, 2505, 2960
 04/11/05 ADOPT: 4970.02, 4970.03, 4970.04,
 4970.05, 4970.06, 4970.07, 4970.08,
 4970.09, 4970.10, 4970.11, 4970.12,
 4970.13, 4970.14, 4970.15, 4970.16,
 4970.17, 4970.18, 4970.19, 4970.20,
 4970.21 AMEND: 4970.00, 4970.01 RE-
 PEAL: 4970.02, 4970.03, 4970.04,
 4970.05
 04/07/05 ADOPT: 1.71 AMEND: 2.09, 2.10, 5.00

Title 14, 27

08/23/05 AMEND: Title 14, sections 17850(a);
 17852(a)(5), (a)(11), (a)(12), (a)(13),
 (a)(15), (a)(16), (a)(21), (a)(22), (a)(24),
 (a)(36), (a)(41); 17855(a), (a)(5)(A);
 17855(a)(5)(B), (a)(7); 17855.4(a), (c),
 (d)(1), (d)(2), (d)(3); 17856(a), (c), (c)(1);
 17

Title 15

08/23/05 AMEND: 3025
 08/03/05 ADOPT: 3436
 07/07/05 ADOPT: 3187 AMEND: 3006, 3188,
 3189, 3331
 06/27/05 REPEAL: 3999.1.7
 06/22/05 AMEND: 2000, 2400, 2403
 06/21/05 REPEAL: 3999.1.3
 06/21/05 REPEAL: 3999.1.2
 06/15/05 AMEND: 3335
 06/08/05 ADOPT: 2251.5, 2251.6, 2251.7
 AMEND: 2041, 2072, 2073, 2074 RE-
 PEAL: 2050, 2051, 2052, 2054, 2055,
 2056, 2701
 06/02/05 AMEND: 1006, 1010, 1018, 1020, 1021,
 1023, 1025, 1028, 1029, 1045, 1046,
 1051, 1052, 1065, 1083, 1144, 1206,
 1209, 1240, 1241, 1242, 1243, 1245,
 1246, 1247, 1248, 1262, 1265, 1267,
 1270, 1271 REPEAL: 1218
 06/01/05 ADOPT: 4141, 4141.1
 05/26/05 AMEND: 3287

Title 16

08/29/05 AMEND: 404.1, 404.2
 08/25/05 AMEND: 1399.15
 08/25/05 AMEND: 473
 08/16/05 ADOPT: 4200, 4202, 4204, 4206, 4208,
 4210, 4212, 4214, 4216, 4218, 4220,
 4222, 4224, 4226, 4228, 4230, 4232,
 4234, 4236, 4240, 4242, 4244, 4246,
 4248, 4250, 4252, 4254, 4256, 4258,
 4260, 4262, 4264, 4266, 4268
 07/28/05 AMEND: 1387, 1387.1, 1387.2, 1387.3,
 1387.5, 1387.6, 1390, 1390.3, 1391
 07/27/05 AMEND: 2085.2
 07/26/05 AMEND: 418
 07/22/05 AMEND: 1888
 07/22/05 AMEND: 109, 116, 117
 07/21/05 ADOPT: 1070.5
 07/18/05 ADOPT: 1399.327, 1399.350.5,
 1399.352.7, 1399.372.5
 07/12/05 AMEND: 1397.51
 07/06/05 ADOPT: 1922.3, 1993.1 AMEND:
 1950.5, 1951, 1953
 07/05/05 ADOPT: 1399.454 AMEND: 1399.450,
 1399.451
 07/05/05 ADOPT: 1398.26.1
 06/22/05 AMEND: 1041
 05/31/05 AMEND: 4154
 05/12/05 AMEND: 1491
 05/10/05 ADOPT: 2293, 2294
 04/28/05 ADOPT: 1070.3
 04/25/05 AMEND: 1805.1, 1807, 1807.2, 1811,
 1816, 1816.1, 1816.4, 1833, 1833.1,
 1833.2, 1846, 1846.1, 1850.7, 1874,
 1886, 1887.4, 1887.9, 1889, 1889.1,
 1889.2, 1889.3
 04/21/05 AMEND: 1399.155
 04/21/05 AMEND: 1398.38
 04/14/05 AMEND: 1398.30
 04/14/05 AMEND: 1071, 1083
 04/14/05 AMEND: 54.1, 54.2

Title 17

08/31/05 ADOPT: 93102.5
 08/18/05 AMEND: 94006
 08/01/05 ADOPT: 58800, 58810, 58811, 58812,
 58820, 58821, 58822, 58830, 58831,
 58832, 58833, 58834, 58840, 58841,
 58842, 58850, 58851, 58860, 58861,
 58862, 58863, 58864, 58870, 58871,
 58872, 58873, 58874, 58875, 58876,
 58879, 58880, 58881, 58882 AMEND:
 54302,
 07/22/05 ADOPT: 50243, 50245, 50247, 50249,
 50251, 50253, 50255, 50257, 50259,
 50261, 50262, 50263, 50265, 50267
 07/11/05 AMEND: 54319
 06/30/05 AMEND: 2500, 2502, 2505

06/23/05 AMEND: 60201, 60202, 60205, 60210
 06/22/05 ADOPT: 30194.1, 30194.2 AMEND:
 30100, 30145, 30145.1, 30225, 30230,
 30231, 30408, 30535 REPEAL: 30232
 06/20/05 AMEND: 94501, 94506, 94507, 94508,
 94509, 94510, 94512, 94513, 94515,
 94526, & Test Method
 05/18/05 AMEND: 50604, 50605, 54310, 54320,
 54326, 54332, 54335
 05/12/05 ADOPT: 1029.117, 1029.134, 1031.8,
 1031.9, 1032.5, 1035.3, 1035.4
 05/02/05 ADOPT: 50243, 50245, 50247, 50249,
 50251, 50253, 50255, 50257, 50259,
 50261, 50262, 50263, 50265, 50267
 04/26/05 AMEND: 3030

Title 18

07/08/05 ADOPT: 4056.1
 06/07/05 ADOPT: 1160, 1214, 1331.2, 1425, 2257,
 2333, 2425, 2520, 3005, 3303, 3503,
 4031.1, 4905
 05/05/05 AMEND: 18522, 18526, 18523, 18530
 05/04/05 AMEND: 6001
 04/29/05 ADOPT: 4056.1
 04/07/05 AMEND: 1703

Title 19

05/26/05 AMEND: 3.11

Title 20

07/26/05 AMEND: 1340, 1341, 1342, 1343, 1344

Title 21

06/03/05 ADOPT: 4059, 4060, 4062.1, 4066, 4067,
 4069, 4072.1 AMEND: 4050, 4052, 4055,
 4056, 4057, 4058, 4061, 4062, 4063,
 4064, 4070, 4071, 4072, 4073 REPEAL:
 4065

Title 22

08/24/05 AMEND: 51510, 51510.1, 51511,
 51511.5, 51511.6, 51535, 51535.1,
 51544, 54501
 08/12/05 AMEND: 12705
 08/12/05 AMEND: 12805
 08/11/05 AMEND: 97212,, 97232, and 97241.
 08/10/05 ADOPT: 97800, 97810, 97820, 97830,
 97840, 97850, 97860, 97870, 97880,
 97890
 07/11/05 AMEND: 70217
 07/06/05 ADOPT: 72516, 73518
 06/30/05 AMEND: 90417
 06/02/05 ADOPT: 51000.10.1, 51000.15.1,
 51000.20.9, 51000.31, 51000.51,
 51000.52, 51000.53, 51000.60 AMEND:
 51000.1, 51000.1.1, 51000.3, 51000.4,
 51000.6, 51000.7, 51000.16, 51000.30,
 51000.35, 51000.40, 51000.45, 51000.50,
 51000.55, 51051, 51451
 05/17/05 AMEND: 66250.1, 66250.2

05/05/05 ADOPT: 97251, 97252, 97253, 97254,
 97255, 97256, 97257, 97258, 97259,
 97260, 97261, 97262, 97263, 97264,
 97265 AMEND: 97210, 97211, 97212,
 97213, 97215, 97216, 97218, 97219,
 97220, 97221, 97222, 97223, 97224,
 97225, 97226, 97227, 97228, 97229,
 97230,

04/21/05 AMEND: Appendix

04/11/05 AMEND: 111430

04/11/05 AMEND: 66260.201

Title 22, MPP

08/05/05 ADOPT: 40-036 AMEND: 22-071, 22-
 072, 22-305, 40-103, 40-105, 40-107,
 40-119, 40-125, 40-131, 40-173, 40-181,
 40-188, 40-190, 41-405, 42-209, 42-213,
 42-221, 42-302, 42-406, 42-407, 42-716,
 42-721, 42-751, 42-769, 44-101, 44-102,
 44-111, 44-113, 44-115,
 06/29/05 AMEND: 63.103.2, 63-300.5, 63-
 402.229, 63-503.441, 63-509(b), 63-
 509(c), 63-801.737(QR)
 06/15/05 AMEND: 80027, 80036, 87224, 87228,
 87834, 87836, 101178, 101187, 102384
 05/09/05 AMEND: 80044, 80045, 80066, 80070,
 84063, 87344, 87345, 87566, 87570,
 87571, 87725, 87725.12, 87844, 87866,
 87870, 88069.7, 88070, 89119, 89182,
 89244, 89245, 89370, 89566, 101200,
 101201, 101217, 101221, 102391,
 102392

Title 23

08/19/05 AMEND: 2611
 08/18/05 ADOPT: 3906
 07/25/05 ADOPT: 3298
 07/22/05 ADOPT: 3979
 07/13/05 ADOPT: 3420, 3421, 3422, 3423, 3424,
 3425, 3426, 3427, 3428
 06/20/05 ADOPT: 499.4.1.1, 499.4.1.2, 499.4.2,
 499.6.3 AMEND: 499.1, 499.2, 499.3,
 499.4, 499.4.1, 499.5, 499.6, 499.6.1,
 499.7, 499.8 REPEAL: 499.6.2
 06/13/05 ADOPT: 18459.1.2, Form CIWMB 203,
 Form 204 AMEND: 18449, 18450,
 18451, 18453.2, 18456, 18456.2.1,
 18457, 18459, 18459.1, 18459.2.1,
 18459.3, 18460.1, 18460.1.1, 18460.2,
 18460.2.1, 18461, 18462, 18463, 18464,
 18466, Penalty Table 1, Penalty Table 2
 05/31/05 ADOPT: 2917
 05/23/05 ADOPT: 3939.14
 05/17/05 AMEND: 645

Title 25

08/12/05 AMEND: 8204, 8210, 8211, 8212,
 8212.1, 8213, 8217

07/22/05 ADOPT: 1019, 1105, 1276, 2105, 2276
 07/11/05 AMEND: 8002, 8004, 8012, 8014
 07/07/05 ADOPT: 8439, 8439.1, 8439.2, 8439.3,
 8439.4, 8440, 8440.1, 8440.2, 8440.3,
 8441, 8441.1, 8441.2, 8441.3, 8441.4,
 8441.5, 8442, 8442.1, 8442.2, 8442.3,
 8442.4, 8442.5, 8442.6, 8442.7, 8442.8,
 8442.9, 8442.10, 8442.11, 8443, 8443.1,
 8443.2, 8443.3, 8443.4,
 04/25/05 AMEND: 7056, 7060, 7062.1, 7064,
 7066, 7078.4
 04/14/05 ADOPT: 7340, 7341, 7342, 7343, 7344,
 7345, 7346, 7347
 04/07/05 AMEND: 6935, 6935.2

Title 28

08/22/05 ADOPT: 1300.67.1.3
 08/10/05 ADOPT: 1300.75.4.2, 1300.75.4.4,
 1300.75.4.7, 1300.75.4.8 AMEND:
 1300.75.4, 1300.75.4.5
 07/25/05 AMEND: 1300.74.30
 06/17/05 AMEND: 1300.70.4

Title MPP

08/12/05 AMEND: 42-101
 08/05/05 ADOPT: 63-508, 63-509 AMEND: 63-
 034, 63-102, 63-103, 63-300, 63-301,
 63-410, 63-501, 63-503, 63-504, 63-505,
 63-801, 63-804
 08/01/05 AMEND: 11-400, 11-102, 11-403, 11-406
 04/22/05 AMEND: 42-101

